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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 905 and 944

[Docket No. FV98–905–2 IFR]

Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida and Imported Grapefruit; Relaxation of the Minimum Size Requirement for Red Seedless Grapefruit

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule makes changes in the regulations under the Florida citrus marketing order and the grapefruit import regulations. This rule relaxes the minimum size requirement for red seedless grapefruit and for red seedless grapefruit imported into the United States from size 48 (3 9/16 inches diameter) to size 56 (3 5/16 inches diameter). The Citrus Administrative Committee (Committee), the agency that locally administers the marketing order for oranges, grapefruit, tangerines, and tangelos grown in Florida, unanimously recommended this change. This change allows handlers and importers to ship size 56 red seedless grapefruit through November 8, 1998.

DATES: Effective January 23, 1998, through November 8, 1998; comments received by March 23, 1998 will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, Room 2525–S, P.O. Box 96456, Washington, D.C. 20090–6456; Fax: (202) 205–6632. All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: William G. Pimental, Southeast Marketing Field Office, F&V, AMS, USDA, P.O. Box 2276, Winter Haven, Florida 33883; telephone: (941) 299–4770, Fax: (941) 299–5169; or Anne M. Dec, Marketing Order Administration Branch, F&V, AMS, USDA, room 2522–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–5698. Small businesses may request information on compliance with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, F&V, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–5698.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 84 and Marketing Order No. 905 (7 CFR Part 905), as amended, regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, hereinafter referred to as the order. The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

This rule is also issued under section 8e of the Act, which provides that whenever specified commodities, including grapefruit, are regulated under a Federal marketing order, imports of these commodities into the United States are prohibited unless they meet the same or comparable grade, size, quality, or maturity requirements as those in effect for the domestically produced commodities.

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

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

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

There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of import regulations issued under section 8e of the Act.

The order for Florida citrus provides for the establishment of minimum grade and size requirements with the concurrence of the Secretary. The grade and size requirements are designated to provide fresh markets with fruit of acceptable quality and size, thereby maintaining consumer confidence for fresh Florida citrus. This helps create buyer confidence and contributes to stable marketing conditions. This is in the interest of growers, handlers, and consumers, and is designed to increase returns to Florida citrus growers. The current minimum grade standard for red seedless grapefruit is U.S. No. 1. The minimum size requirement for domestic shipments is size 56 (at least 3 5/16 inches in diameter) through November 8, 1997, and size 48 (3 9/16 inches in diameter) thereafter. The current minimum size for export shipments is size 56 throughout the year.

This interim final rule invites comments on a change to the order's rules and regulations relaxing the minimum size requirement for domestic shipments of red seedless grapefruit. This action allows for the continued shipment of size 56 grapefruit. This rule relaxes the minimum size from size 48 (3 9/16 inches diameter) to size 56 (3 5/16 inches diameter) through November 8, 1998. Absent this change, the minimum size would be size 48 (3 9/16 inches diameter). The Committee met on October 14 and December 16, 1997, and unanimously recommended this action.

Section 905.52 of the order, in part, authorizes the Committee to recommend minimum grade and size regulations to the Secretary. Section 905.306 (7 CFR 905.306) specifies minimum grade and size requirements for different varieties of fresh Florida grapefruit. Such requirements for domestic shipments are specified in § 905.306 in Table I of paragraph (a), and for export shipments in Table II of paragraph (b). This rule adjusts Table I to reflect the minimum size of 56 through November 8, 1998. Minimum grade and size requirements for grapefruit imported into the United States are currently in effect under § 944.106 (7 CFR 944.106). Export requirements are not changed by this rule.

The Committee originally met to discuss this issue on October 14, 1997, and recommended releasing size 56 red grapefruit for a limited time period this season. They voted to allow handlers to ship size 56 red seedless grapefruit through January 11, 1998, to give the Committee time to determine the market effect of size 56.

The Committee met again on December 16, 1997, through an emergency telephone meeting. The meeting was called to determine whether the Committee wanted to release size 56 for the remainder of the season. The Committee voted unanimously to extend the release of size 56 through November 8, 1998.

While wanting to give handlers the opportunity to continue to market size 56, the Committee also wanted the opportunity to review the effect of size 56 on the domestic market after the percentage of size rule expired November 30, 1997 (62 FR 58633; October 30, 1997). The percentage of size rule controlled the volume of sizes 48 and 56 that was shipped in a given week, to both domestic and export markets. There is a limited market for small sizes. However, the largest part of this market is to export markets. The Committee is not sure to what extent there is domestic demand for size 56. This minimum size change pertains to the domestic market, and does not change the minimum size for export shipments which will continue at size 56 throughout the season.

To determine if there is a domestic market for size 56, and the effect of its presence on the market, the Committee recommended, on October 14, 1997, allowing shipments of size 56 red seedless grapefruit through January 11, 1998. The Committee agreed to revisit the issue to evaluate the impact of size 56 on the market after the expiration of volume regulation.

The Committee revisited the issue during the meeting December 16, 1997, and determined that size 56 should not be released until November 8, 1998. In making its recommendation, the Committee considered estimated supplies and current shipments. The Committee examined the size distribution information available for the current season. On December 12, 1997, the Florida Agricultural Statistics Service (FASS) reduced the marketable crop estimate for red seedless grapefruit by two million boxes, or approximately seven percent for the 1997–98 season. FASS also reported that red seedless grapefruit size as measured in November, was 30.6 percent size 56 and smaller as compared to 35.5 percent as measured in November last year. This in turn compares to only 16.8 percent measuring size 56 or smaller in November of 1995. So, even though red seedless grapefruit are running larger than last season, there are a fair number of small grapefruit.

The Committee also reviewed shipment data available through November 23 of this season. Thus far, size 56 red seedless grapefruit represents only 3.7 percent of total domestic shipments. Comparatively, through the same time period, 11 percent of all red seedless grapefruit shipments from Florida, domestic and export was size 56. Of the size 56 red seedless grapefruit shipped, 18 percent went to the domestic market, while 82 percent was shipped to the export market.

In its discussion, the Committee recognized that fruit was continuing to size. One member commented that fruit that had measured size 56 in October, had sized up one size. This was helping to match supplies of size 56 with demand. The Committee did have several concerns. One topic that was raised was the currency and economic problems currently facing the Pacific Rim countries. These countries traditionally have been good markets for size 56 grapefruit. The Committee was concerned that current conditions could reduce demand, and alternative outlets would need to be available. The Committee agreed that it would be advantageous to have the ability to ship size 56 red seedless grapefruit to the domestic market should problems materialize in the export market.

One Committee member asked whether Texas was planning to market size 56 grapefruit this season. The Committee was informed that Texas would be selling size 56 for the entire season. The Committee believes that some domestic markets may have been developed for size 56 and that handlers should continue to supply those markets.

Based on the available information, the Committee unanimously recommended that the minimum size for shipping red seedless grapefruit to the domestic market should be size 56 through November 8, 1998.

This rule will have a beneficial impact on producers and handlers since it will permit Florida grapefruit handlers to make available those sizes of fruit needed to meet anticipated market demand for the 1997–98 season. This will provide for the maximization of shipments to fresh market channels during this period. Additionally, importers will be favorably affected by this change since the relaxation of the minimum size regulation will also apply to imported grapefruit.

Section 8e of the Act provides that when certain domestically produced commodities, including grapefruit, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, and maturity requirements. Since this rule relaxes the minimum size requirement under the domestic handling regulations, a corresponding change to the import regulations is necessary.

Minimum grade and size requirements for grapefruit imported into the United States are currently in effect under § 944.106 [7 CFR 944.106]. This rule relaxes the minimum size requirements for imported red seedless grapefruit to 3 5/16 inches in diameter (size 56) for the remainder of the 1997–1998 season ending on November 8, 1998, to reflect the relaxation being made under the order for grapefruit grown in Florida.

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, 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. Import regulations issued under the Act are based on those established under Federal marketing orders.

There are approximately 80 Florida citrus handlers subject to regulation

under the marketing order, about 11,000 Florida citrus producers, and about 25 grapefruit importers. Small agricultural service firms, which include grapefruit handlers and importers, have been defined by the Small Business Administration (13 CFR 121.601) as those whose annual receipts are less than $5,000,000, and small agricultural producers are defined as those whose annual receipts are less than $500,000.

Based on the Florida Agricultural Statistics Service and Committee data for the 1995–96 season, the average annual f.o.b. price for fresh Florida red grapefruit during the 1995–96 season was $5.00 per 4/5 bushel cartons for all grapefruit shipments, and the total shipments for the 1995–96 season were 23 million cartons of grapefruit. Approximately 20 percent of all handlers handled 60 percent of Florida grapefruit shipments. In addition, many of these handlers ship other citrus fruit and products which are not included in Committee data but would contribute further to handler receipts. Using the average f.o.b. price, about 80 percent of grapefruit handlers could be considered small businesses under the SBA definition and about 20 percent of the handlers could be considered large businesses. The majority of handlers, growers, and importers may be classified as small entities.

Florida shipped approximately 44,224,000 cartons of grapefruit to the fresh market during the 1996–97 season. Of these cartons, about 25,586,000 were exported. In the past three seasons, domestic shipments of Florida grapefruit averaged about 18,798,000 cartons. During the period 1991 through 1996, imports have averaged 734,800 cartons a season. Imports account for less than five percent of domestic shipments.

Section 905.52 of the order, in part, authorizes the Committee to recommend minimum grade and size regulations to the Secretary. Section 905.306 (7 CFR 905.306) specifies minimum grade and size requirements for different varieties of fresh Florida grapefruit. This rule relaxes the minimum size requirement for domestic shipments of red seedless grapefruit from size 48 (3 9/16 inches diameter) to size 56 (3 5/16 inches diameter) through November 8, 1998. No change is being made in the minimum size requirement for export shipments of size 56. Absent this rule, the minimum size requirement for domestic shipments would be size 48. The motion to allow shipments of size 56 red seedless grapefruit through November 8, 1998, was passed by the Committee unanimously.

The Committee originally met to discuss this issue on October 14, 1997, and recommended releasing size 56 red grapefruit for a limited time period this season. They voted to allow handlers to ship size 56 red seedless grapefruit through January 11, 1998, to give the Committee time to determine the market effect of size 56.

The Committee met again on December 16, 1997, through an emergency telephone meeting. The meeting was called to determine whether the Committee wanted to release size 56 for the remainder of the season. The Committee voted unanimously to extend the release of size 56 through November 8, 1998.

In its discussion, the Committee recognized that fruit was continuing to size. One member commented that fruit that had measured size 56 in October, had sized up one size. This was helping to match supplies of size 56 with demand. The Committee did have several concerns. One topic that was raised was the currency and economic problems currently facing the Pacific Rim countries. These countries traditionally have been good markets for size 56 grapefruit. The Committee was concerned that current conditions could reduce demand, and alternative outlets would need to be available. The Committee agreed that it would be advantageous to have the ability to ship size 56 red seedless grapefruit to the domestic market should problems materialize in the export market.

One Committee member asked whether Texas was planning to market size 56 grapefruit this season. The Committee was informed that Texas would be selling size 56 for the entire season. The Committee believes that some domestic markets may have been developed for size 56 and that handlers should continue to supply those markets.

During the discussion of this rule, the Committee considered the costs and benefits of this action. Several members stated that with the volume of grapefruit available, the stagnant demand, and concerns regarding the Asian export markets, it was important to take advantage of any market available. There was also discussion that Texas was planning to ship size 56 this season. Some members stated that if they eliminated size 56, they would be losing markets. Members agreed that maximizing fresh shipments helps grower returns. The Committee has released size 56 for the past seven seasons. There should be no production adjustment costs associated with this rule.

This rule is expected to have a positive impact on growers and handlers, as it will permit the shipment of smaller sized red seedless grapefruit to the domestic market, allowing the industry to meet anticipated demand through November 8, 1998. This will provide for the maximization of shipments to fresh market channels during this period.

This regulation lowers the minimum size to size 56. This minimum applies to all handlers of red seedless grapefruit. The costs or benefits of this rule are not expected to be disproportionately more or less for small handlers or growers than for larger entities.

In 1996, imports of grapefruit totaled 15,000 tons (approximately 705,880 cartons). The Bahamas were the principal source, accounting for 95 percent of the total. Remaining imports were supplied by the Dominican Republic and Israel. Imported grapefruit enters the United States from October through May. Imports account for less than five percent of domestic shipments.

Section 8e of the Act provides that when certain domestically produced commodities, including grapefruit, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality and maturity requirements. Because this rule changes the minimum size for domestic red seedless grapefruit shipments, this change will also be applicable to imported grapefruit. This rule relaxes the minimum size to size 56. This regulation will benefit importers to the same extent that it benefits Florida grapefruit producers and handlers because it allows shipments of size 56 red seedless grapefruit into U.S. markets through November 8, 1998.

The Committee discussed alternatives to this action. One alternative discussed was the elimination of size 56 grapefruit all together. Several members expressed concern that a viable market has been developed for a portion of the size 56 grapefruit crop. Not allowing handlers to supply this market could result in throwing business and money away. Other members pointed out that it could be detrimental to supply this market for smaller sizes if that market is not profitable and the result is depressed prices for all sizes of grapefruit.

In addition, the Committee recognized that through November, regulation was in place to control the amount of size 56 red seedless grapefruit entering the market. Under the percentage of size rule, the quantity of sizes 48 and/or 56 red seedless grapefruit that may be shipped by a handler during a particular

week is calculated using a recommended percentage. This percentage of size rule was in effect through November 30, 1997. The Committee agreed that, for the remainder of the 1997–1998 season, no further restriction on size 56 was necessary. A motion to eliminate size 56 was rejected.

This rule will not impose any additional reporting or recordkeeping requirements on either small or large red seedless grapefruit handlers or importers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information collection requirements and duplication by industry and public sectors.

In addition, the Department has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule. However, red seedless grapefruit must meet the requirements as specified in the U.S. Standards for Grades of Florida Grapefruit (7 CFR 51.760 through 51.784) issued under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 through 1627).

Further, the Committee's October meeting was widely publicized throughout the citrus industry and all interested persons were invited to attend the meeting and participate in Committee deliberations. Like all Committee meetings, the October 14, 1997, meeting was a public meeting and all entities, both large and small, were able to express their views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

In accordance with section 8e of the Act, the United States Trade Representative has concurred with the issuance of this interim final rule.

After consideration of all relevant material presented, including the Committee's recommendation, and other information, it is found that this interim final rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined, upon good cause, that it is impracticable, unnecessary and contrary to the public interest to give preliminary notice prior to putting this rule into effect, and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) This rule relaxes the minimum size requirement currently in effect for red seedless grapefruit grown in Florida and red seedless grapefruit imported into the United States; (2) Florida grapefruit handlers are aware of this action which was unanimously recommended by the Committee, and they will need no additional time to comply with the relaxed size requirement; (3) shipments of the 1997–98 season Florida red seedless grapefruit crop are underway; and (4) this rule provides a 60-day comment period, and any comments received will be considered prior to any finalization of this interim final rule.

List of Subjects

7 CFR Part 905

Grapefruit, Marketing agreements, Oranges, Reporting and recordkeeping requirements, Tangelos, Tangerines.

7 CFR Part 944

Avocados, Food grades and standards, Grapefruit, Grapes, Imports, Kiwifruit, Limes, Olives, Oranges.

For the reasons set forth above, 7 CFR parts 905 and 944 are amended as follows:

1. The authority citation for 7 CFR parts 905 and 944 continues to read as follows:

Authority: 7 U.S.C. 601–674.

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

2. Section 905.306 is amended by adding entries in Table 1 of paragraph (a) for ''seedless, red grapefruit'' to read as follows:

§ 905.306 Orange, Grapefruit, Tangerine, and Tangelo Regulation.

(a) * * *

TABLE I

Variety (1)	Regulation period (2)	Minimum grade (3)	Minimum diameter (inches) (4)
GRAPEFRUIT			
* * *	* * *	* * *	
Seedless, red:			
	1/23/98–11/8/98	U.S. No. 1	3–5/16
	On and after 11/9/98	U.S. No. 1	3–9/16
* * *	* * *	* * *	

* * * * *

PART 944—FRUITS; IMPORT REGULATIONS

4. Section 944.106 is amended by adding entries in the table in paragraph (a) for ''seedless red grapefruit'' to read as follows:

§ 944.106 Grapefruit import regulation.

(a) * * *

Grapefruit classification (1)	Regulation period (2)	Minimum grade (3)	Minimum diameter (inches) (4)
* * *	* * *	* * *	
Seedless, red:			
	1/23/98–11/8/98	U.S. No. 1	3 5/16
	On and after 11/9/98	U.S. No. 1	3 9/16

Grapefruit classification (1)	Regulation period (2)	Minimum grade (3)	Minimum diameter (inches) (4)
* *	* *	* *	*

* * * * *

Dated: January 15, 1998.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 98–1430 Filed 1–21–98; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 982

[Docket No. FV98–982–1 IFR]

Hazelnuts Grown in Oregon and Washington; Establishment of Interim and Final Free and Restricted Percentages for the 1997–98 Marketing Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule establishes interim and final free and restricted percentages for domestic inshell hazelnuts for the 1997–98 marketing year under the Federal marketing order for hazelnuts grown in Oregon and Washington. The percentages allocate the quantity of domestically produced hazelnuts which may be marketed in the domestic inshell market. The percentages are intended to stabilize the supply of domestic inshell hazelnuts to meet the limited domestic demand for such hazelnuts and provide reasonable returns to producers. This rule was recommended unanimously by the Hazelnut Marketing Board (Board), which is the agency responsible for local administration of the order.

DATES: Effective January 23, 1998. Comments which are received by March 23, 1998, will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this 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, DC 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 available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Teresa L. Hutchinson, Northwest Marketing Field Office, Fruit and Vegetable Programs, Agricultural Marketing Service, USDA, 1220 SW Third Avenue, Room 369, Portland, OR 97204; telephone: (503) 326–2724, Fax: (503) 326–7440 or George J. Kelhart, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, Room 2525–S, P.O. Box 96456, Washington, DC 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 2525–S, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 205–6632.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 115 and Order No. 982 (7 CFR part 982), both as amended, regulating the handling of hazelnuts grown in Oregon and Washington, hereinafter referred to as the ''order.'' The marketing agreement and order are 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 rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is intended that this action apply to all merchantable hazelnuts handled during the 1997–98 marketing year (July 1, 1997, through June 30, 1998). This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

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

This rule establishes marketing percentages which allocate the quantity of inshell hazelnuts that may be marketed in domestic markets. The Board is required to meet prior to September 20 of each marketing year to compute its marketing policy for that year and compute and announce an inshell trade demand if it determines that volume regulations would tend to effectuate the declared policy of the Act. The Board also computes and announces preliminary free and restricted percentages for that year.

The inshell trade demand is the amount of inshell hazelnuts that handlers may ship to the domestic market throughout the marketing season. The order specifies that the inshell trade demand be computed by averaging the preceding three ''normal'' years' trade acquisitions of inshell hazelnuts, rounded to the nearest whole number. The Board may increase the three-year average by up to 25 percent, if market conditions warrant an increase. The Board's authority to recommend volume regulations and the computations used to determine released percentages are specified in section 982.40 of the order.

The National Agricultural Statistics Service (NASS) estimated hazelnut production at 40,000 tons for the Oregon and Washington area.

The majority of domestic inshell hazelnuts are marketed in October, November, and December. By November, the marketing season is well under way.

The quantity marketed is broken down into free and restricted percentages to make available hazelnuts which may be marketed in domestic inshell markets (free) and hazelnuts which must be exported, shelled or

otherwise disposed of (restricted). The preliminary free percentage releases 80 percent of the adjusted inshell trade demand. The preliminary free percentage is expressed as a percentage of the total supply subject to regulation (supply) and is based on the preliminary crop estimate.

At its August 28, 1997, meeting, the Board computed and announced preliminary free and restricted percentages of 8 percent and 92 percent, respectively. The Board used the NASS crop estimate of 40,000 tons. The purpose of releasing only 80 percent of the inshell trade demand under the preliminary percentage was to guard against an underestimate of crop size. The preliminary free percentage released 3,003 tons of hazelnuts from the 1997 supply for domestic inshell use. The preliminary restricted percentage of the 1997 supply for export and kernel markets totaled 34,296 tons.

Under the order, the Board must meet a second time, on or before November 15, to recommend interim final and final percentages. The Board uses current crop estimates to calculate the interim final and final percentages. The interim final percentages are calculated in the same way as the preliminary percentages and release the remaining 20 percent (to total 100 percent of the inshell trade demand) previously computed by the Board. Final free and restricted percentages may release up to an additional 15 percent of the average of the preceding three years' trade acquisitions to provide an adequate carryover into the following season. The final free and restricted percentages must be effective by June 1, at least 30 days prior to the end of the marketing year, June 30. The final free and restricted percentages can be made effective earlier, if recommended by the Board and approved by the Secretary. Revisions in the marketing policy can be made until February 15 of each marketing year, but the inshell trade demand can only be revised upward, consistent with section 982.40(e).

The Board met on November 13, 1997, and reviewed and approved an amended marketing policy. The Board recommended that the three-year average trade acquisition figure of 4,279 tons be increased by 214 tons for market expansion. The Board also recommended the establishment of interim final and final free and restricted percentages. Interim final percentages were recommended at 10 percent free and 90 percent restricted. The interim final percentage makes an additional 965 tons of inshell hazelnuts available for the domestic inshell market, including product for market expansion. The interim final marketing percentages are based on the Board's final production estimate (42,000 tons) and release 3,968 tons to the domestic inshell market from the 1997 supply subject to regulation. The interim final restricted percentage resulted in a restricted obligation of 35,173 tons.

The final free and restricted percentages were recommended at 12 percent and 88 percent, respectively. The Board also recommended that the final percentages be effective on April 30, 1997. The established final marketing percentages release for domestic inshell use an additional 642 tons from the supply subject to regulation. Thus, a total of 4,610 tons of inshell hazelnuts will be released from the 1997 supply for domestic inshell use.

The marketing percentages are based on the Board's production estimates and the following supply and demand information for the 1997–98 marketing year:

	Tons
Inshell Supply	
(1) Total production (Board's estimate)	42,000
(2) Less substandard, farm use (disappearance)	2,860
(3) Merchantable production (Board's adjusted crop estimate)	39,140
(4) Plus undeclared carryin as of July 1, 1997, subject to regulation	1
(5) Supply subject to regulation (Item 3 plus Item 4)	39,141
Inshell Trade Demand	
(6) Average trade acquisitions of inshell hazelnuts for three prior years	4,279
(7) Increase to encourage increased sales (5 percent of Item 6)	214
(8) Less declared carryin as of July 1, 1996, not subject to regulation	525
(9) Adjusted Inshell Trade Demand	3,968
(10) 15 percent of the average trade acquisitions of inshell hazelnuts for three prior years (Item 6)	642
(11) Adjusted Inshell Trade Demand plus 15 percent for carryout (Item 9 plus Item 10)	4,610

Percentages	Free	Restricted
(12) Interim final percentages (Item 9 divided by Item 5) × 100	10	90
(13) Final percentages (Item 11 divided by Item 5) × 100	12	88

In addition to complying with the provisions of the order, the Board also considered the Department's 1982 ''Guidelines for Fruit, Vegetable, and Specialty Crop Marketing Orders'' (Guidelines) when making its computations in the marketing policy. This volume control regulation provides a method to collectively limit the supply of inshell hazelnuts available for sale in domestic markets. The Guidelines provide that the domestic inshell market has available a quantity equal to 110 percent of prior years' shipments before secondary market allocations are approved. This provides for plentiful supplies for consumers and for market expansion, while retaining the mechanism for dealing with oversupply situations. At its November 13, 1997, meeting, the Board recommended that an increase of 5 percent (214 tons) for market expansion be included in the inshell trade demand which was used to compute the interim percentages. The established final percentages are based on the final inshell trade demand, and will make available an additional 642 tons for desirable carryout. The total free supply for the 1997–98 marketing year is 5,135 tons of hazelnuts, which is the final trade demand of 4,610 tons plus the declared carryin of 525 tons. This amount is 120 percent of prior years' sales and exceeds the goal of the Guidelines.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities. Accordingly, 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 approximately 1,000 producers of hazelnuts in the production area and approximately 23 handlers subject to regulation under the marketing order. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000. Using these criteria, virtually all of the producers are small agricultural producers and an estimated 20 of the 23 handlers are small

agricultural service firms. Thus, the great majority of hazelnut producers and handlers may be classified as small entities.

Board meetings are widely publicized in advance of the meetings and are held in a location central to the production area. The meetings are open to all industry members and other interested persons who are encouraged to participate in the deliberations and voice their opinions on topics under discussion. Thus, Board recommendations can be considered to represent the interests of small business entities in the industry.

Many years of marketing experience led to the development of the current volume control procedures. These procedures have helped the industry solve its marketing problems by keeping inshell supplies in balance with domestic needs. The current volume control procedures fully supply the domestic inshell market, provide for market expansion, and help prevent oversupplies in that market.

Inshell hazelnuts sold to the domestic market provide higher returns to the industry than are obtained from shelling. The inshell market is inelastic and is characterized as having limited demand and being prone to oversupply.

Industry statistics show that total hazelnut production has varied widely over the last 10 years, from a low of 13,000 tons in 1989 to a high of 41,000 tons in 1993. Average production has been around 24,000 tons. While crop size has fluctuated, the volume regulations contribute toward orderly marketing and market stability, and help moderate the variation in returns for all growers and handlers, both large and small. For instance, production in the shortest crop year (1989) was 53 percent of the 10-year average (1987–1996). Production in the biggest crop year (1996) was 170 percent of the 10-year average. The percentage releases provide all handlers with the opportunity to benefit from the most profitable domestic inshell market. That market is available to all handlers, regardless of handler size.

NASS statistics show that the grower price per pound has increased steadily over the last 4 years, from $.28 in 1992 to $.43 in 1996.

The Board discussed the only alternative to this rule which was not to regulate. Without any regulations in effect, the Board believes that the industry would oversupply the inshell domestic market. With the 1997 hazelnut crop the largest in history, the release of 42,000 tons on the domestic inshell market would cause grower returns to decrease drastically, and completely disrupt the market.

While the level of benefits of this rulemaking are difficult to quantify, the stabilizing effects of the volume regulations impact both small and large handlers positively by helping them maintain and expand markets even though hazelnut supplies fluctuate widely from season to season.

Hazelnuts produced under the order comprise virtually all of the hazelnuts produced in the U.S. This production represents, on average, approximately 3 percent of total U.S. tree nut production and approximately 3 percent of the world's hazelnut production.

This volume control regulation provides a method for the U.S. hazelnut industry to limit the supply of domestic inshell hazelnuts available for sale in the U.S. Section 982.40 of the order establishes a procedure and computations for the Board to follow in recommending to the Secretary release of preliminary, interim final, and final quantities of hazelnuts to be released to the free and restricted markets each marketing year. The program results in plentiful supplies for consumers and for market expansion while retaining the mechanism for dealing with oversupply situations.

Currently, U.S. hazelnut production can be successfully allocated between the inshell domestic and secondary markets. One of the best secondary markets for hazelnuts is the export market. Inshell hazelnuts produced under the marketing order compete well in export markets because of quality. Europe, and Germany in particular, is historically the primary world market for U.S. produced inshell hazelnuts, although China was the largest importer in 1996–97. A third market is for shelled hazelnuts sold domestically. Domestically produced kernels generally command a higher price in the domestic market than imported kernels. The industry is continuing its efforts to develop and expand secondary markets, especially the domestic kernel market. Small business entities, both producers and handlers, benefit from the expansion efforts resulting from this program.

There are some reporting, recordkeeping and other compliance requirements under the order. The reporting and recordkeeping burdens have been accepted by the handlers as necessary for compliance purposes and for developing statistical data for maintenance of the program. The forms require information which is readily available from handler records and which can be provided without data processing equipment or trained statistical staff. As with other marketing order programs, reports and forms are periodically studied to reduce or eliminate duplicate information collection burdens by industry and public sector agencies. This interim final rule does not change those requirements.

The Department has not identified any relevant Federal rules that duplicate, overlap or conflict with this regulation.

Written comments as to the effect of this action on small business entities timely received, will be considered before finalization of this rule.

After consideration of all relevant material presented, including the Board's recommendation and other information, it is found that this interim final rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined, upon good cause, that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect, and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) The 1997–98 marketing year began July 1, 1997, and the percentages established herein apply to all merchantable hazelnuts handled from the beginning of the crop year; (2) handlers are aware of this rule, which was recommended at an open Board meeting, and need no additional time to comply with this rule; and (3) interested persons are provided a 60-day comment period in which to respond. All comments timely received will be considered prior to finalization of this action.

List of Subjects in 7 CFR Part 982

Filberts, Hazelnuts, Marketing agreements, Nuts, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 982 is amended as follows:

PART 982—HAZELNUTS GROWN IN OREGON AND WASHINGTON

1. The authority citation for 7 CFR Part 982 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 982.245 is added to read as follows:

Note: This section will not appear in the annual Code of Federal Regulations.

§ 982.245 Free and restricted percentages—1997–98 marketing year.

(a) The interim final free and restricted percentages for merchantable hazelnuts for the 1997–98 marketing year shall be 10 and 90 percent, respectively.

(b) On April 30, 1998, the final free and restricted percentages for merchantable hazelnuts for the 1997–98 marketing year shall be 12 and 88 percent, respectively.

Dated: January 15, 1998.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 98–1433 Filed 1–21–98; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 997 and 998

[Docket No. FV97–998–3 FIR]

Domestically Produced Peanuts Handled by Persons Not Subject to Peanut Marketing Agreement No. 146; Marketing Agreement No. 146 Regulating the Quality of Domestically Produced Peanuts

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting as a final rule, without change, an interim final rule which decreased the assessment rate for the Peanut Administrative Committee (Committee) under Marketing Agreement No. 146 (agreement) for the 1997–98 and subsequent crop years. Authorization to assess peanut handlers who have signed the agreement enables the Committee to incur expenses that are reasonable and necessary to administer the program. The Department is also required to impose an administrative assessment on farmers' stock peanuts received or acquired by handlers who are not signatory (non-signatory handlers) to the agreement. Therefore, the assessment rate established under the agreement also must be applied to all non-signatory handlers. The 1997–98 crop year began July 1 and ends June 30. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

EFFECTIVE DATE: February 23, 1998.

FOR FURTHER INFORMATION CONTACT: Tammie Bryant or Jim Wendland, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 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 2525–S, Washington, DC 20090–6456, telephone (202) 720–2491, FAX (202) 205–6632.

SUPPLEMENTARY INFORMATION: This rule is issued pursuant to the requirements of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereafter referred to as the ''Act''; and under Marketing Agreement No. 146 (7 CFR part 998) regulating the quality of domestically produced peanuts.

The Department is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Farmers' stock peanuts received or acquired by non-signatory handlers and farmers' stock peanuts received or acquired by handlers signatory to the agreement, other than from those described in §§ 998.31(c) and (d), are subject to assessments. It is intended that the assessment rates issued herein will be applicable to all assessable peanuts beginning July 1, 1997, and continuing until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

This rule adopts as a final rule, without change, the provisions of an interim final rule, which decreased the assessment rate established for the Committee for the 1997–98 and subsequent fiscal years from $0.70 to $0.35 per ton.

The agreement provides authority for the Committee, with the approval of the Department, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. Funds to administer the agreement program are derived from signatory handler assessments. The members of the Committee are handlers and producers of peanuts. They are familiar with the Committee's needs and with the costs of goods and services in their local areas and, thus, are in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in public meetings. Thus, all directly affected persons have an opportunity to participate and provide input. The handlers of peanuts who are directly affected have signed the marketing agreement authorizing the expenses that may be incurred and the imposition of assessments.

For the 1997–98 and subsequent crop years, the Committee recommended and the Department approved, an assessment rate that would continue in effect from crop year to crop year indefinitely unless modified, suspended, or terminated by the Secretary, upon recommendation and information submitted by the Committee or other information available to the Secretary.

The Committee met on April 30, 1997, and unanimously recommended 1997–98 administrative expenditures of $525,000 and an administrative assessment rate of $0.35 per net ton of assessable farmers' stock peanuts received or acquired by handlers. The Committee also voted not to recommend an assessment rate for indemnification for handler losses due to aflatoxin contamination. Adequate funds are included in the Committee's indemnification reserve for such expenses during the 1997–98 crop year. In comparison, last year's budgeted administrative expenditures were $1,025,500. Major expenditures recommended by the Committee for the 1997–98 crop year compared with those budgeted for 1996–97 (in parentheses) include: $55,000 for executive salaries ($112,450), $50,000 for clerical salaries ($131,500), $125,000 for field representatives (3 compliance officers rather than 7 fieldmen) salaries ($296,700), $18,000 for payroll taxes ($42,000), $65,000 for employee benefits ($148,000), $40,000 for Committee members travel ($40,000), $5,000 for staff travel ($5,000), $60,000 for field representatives travel ($110,000), $9,800 for insurance and bonds ($9,800), $19,000 for office rent and parking ($46,200), $10,000 for office supplies and stationery ($14,000), $10,400 for postage and mailing ($13,200), $11,000 for telephone and telegraph ($15,000), $6,000 for repairs and maintenance agreements ($6,000), $10,400 for the audit fee ($10,400), and $15,800 for the contingency reserve ($10,250).

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected receipts and acquisitions of farmers' stock peanuts. Farmers' stock peanuts received or acquired by handlers signatory to the agreement, other than from those described in § 998.31(c) and

(d), are subject to the assessments. Farmers stock peanuts received or acquired by non-signatory handlers by law are subject to the same assessment rate. Assessments are due on the 15th of the month following the month in which the farmers' stock peanuts are received or acquired. Receipts for the year under the agreement are estimated at 1,500,000 tons, which should provide $525,000 in assessment income. Approximately 95 percent of the domestically produced peanut crop is marketed by handlers who are signatory to the agreement. The remaining 5 percent of the U.S. peanut crop is marketed by non-signer handlers.

The Act provides for mandatory assessment of farmers' stock peanuts acquired by non-signatory peanut handlers. Section 608b of the Act specifies that: (1) Any assessment (except indemnification assessments) imposed under the agreement on signatory handlers shall also apply to non-signatory handlers, and (2) such assessment shall be paid to the Secretary.

The assessment rates established in this rule will continue in effect indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other available information.

Although these assessment rates are effective for an indefinite period, the Committee will continue to meet prior to or during each crop year to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or the Department. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department will evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The Committee's 1997–98 budget was reviewed and approved by the Department on September 17, 1997, and those for subsequent crop years will be reviewed and, as appropriate, approved by the Department.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this final 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. There are approximately 80 peanut handlers who are subject to regulation under the agreement or the non-signer program and approximately 25,000 peanut producers in the 16-State production area. Small agricultural service firms, which include handlers, have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those whose annual receipts are less than $500,000. Approximately 25 percent of the signatory handlers, virtually all of the non-signer handlers, and most of the producers may be classified as small entities.

This rule continues in effect the assessment rate established for the Committee and collected from handlers for the 1997–98 and subsequent crop years of $0.35 per net ton. The assessment rate is $0.35 less than the rate previously in effect.

The Committee discussed alternatives to this rule, including alternative expenditure levels. The Committee also discussed the alternative of not decreasing the assessment rate. However, it decided against this course of action. The peanut industry has been in a state of economic decline since 1991, with the Committee attempting to cut costs wherever possible. The Committee's budget for 1997–98 is $525,000; this is $500,500 less than the amount budgeted for 1996–97. Based on an estimated 1,500,000 net tons of assessable peanuts, income derived from handler assessments during 1997–98 will be adequate to cover budgeted expenses.

This rule continues in effect the assessment obligation imposed on handlers. While this action will impose some costs on handlers, the costs are minimal and in the form of uniform assessments on all handlers. Some of the costs may be passed on to producers. However, these costs will be offset by the benefits derived from the operation of the agreement. This administrative assessment is required to also be applied uniformly to all non-signatory handlers and should be of benefit to all. In addition, the Committee's meeting was widely publicized throughout the peanut industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the April 30, 1997, meeting was a public meeting and all entities, both large and small, were able to express views on this issue.

This action will not impose any additional reporting or recordkeeping requirements on either small or large peanut handlers. As with all Federal marketing agreement and order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

The Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

An interim final rule concerning this action was published in the **Federal Register** on September 17, 1997 (62 FR 48749). A copy of the interim final rule was also made available on the Internet by the Office of the Federal Register. The comment period ended October 17, 1997, and no comments were received.

After consideration of all relevant matter presented, including the information and recommendation submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

List of Subjects

7 CFR Part 997

Food grades and standards, Peanuts, Reporting and recordkeeping requirements.

7 CFR Part 998

Marketing agreements, Peanuts, Reporting and recordkeeping requirements.

PART 997—PROVISIONS REGULATING THE QUALITY OF DOMESTICALLY PRODUCED PEANUTS HANDLED BY PERSONS NOT SUBJECT TO THE PEANUT MARKETING AGREEMENT

PART 998—MARKETING AGREEMENT REGULATING THE QUALITY OF DOMESTICALLY PRODUCED PEANUTS

Accordingly, the interim final rule amending 7 CFR parts 997 and 998 which was published at 62 FR 48749 on September 17, 1997, is adopted as a final rule without change.

Dated: January 15, 1998.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 98–1432 Filed 1–21–98; 8:45 am]

BILLING CODE 3410–02–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; Correction

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

ACTION: Final rule; correcting amendments.

SUMMARY: This document contains corrections to the final regulations which were published Wednesday, December 24, 1997 (62 FR 67258–65). The regulations provided 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: January 22, 1998.

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

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of these corrections amend the issuing agencies regulations to reflect the reorganization of the Department of Agriculture. The Department of Agriculture Reorganization Act of 1994 (Pub. L. 103–354)(1994 Act), enacted on October 13, 1994, abolished the Farmers Home Administration (FmHA). The Office of the Assistant Administrator, Farm Loan Programs, and all of 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. The rule only covers the Rural Development agencies.

Need for Correction

As published, the final regulations contain errors which may cause inconvenience and confusion for the public.

List of Subjects in 7 CFR Part 2003

Organizations and functions (government agencies).

PART 2003—ORGANIZATION

Accordingly, 7 CFR part 2003 is corrected by making the following correcting amendments:

1. The authority citation for Part 2003 continues 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.*

§ 2003.10 [Corrected]

2. In the table in § 2003.10(c) the location for the USDA Rural Development State Office in Texas is revised to read ''Temple, TX''.

3. In the table in § 2003.10(c) after the entry for Texas, an additional State entry is added to read ''Utah'', and an additional location entry is added to read ''Salt Lake City, UT''.

Dated: January 14, 1998.

Jill Long Thompson,

Under Secretary, Rural Development.

[FR Doc. 98–1512 Filed 1–21–98; 8:45 am]

BILLING CODE 3410–XT–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 8757]

RIN 1545–AV46

Obligations of States and Political Subdivisions

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains final and temporary regulations that provide guidance to state and local governments that issue bonds for output facilities. This document also contains temporary regulations that provide guidance to certain nongovernmental persons that are engaged in the local furnishing of electric energy or gas using facilities financed with state or local government bonds. These temporary regulations reflect changes made by the Tax Reform Act of 1986 and the Small Business Job Protection Act of 1996. The temporary regulations will affect State and local government issuers of obligations and nongovernmental persons engaged in the local furnishing of electric energy or gas after the effective date of these regulations.

The text of these temporary regulations also serves as the text of the proposed regulations set forth in the notice of proposed rulemaking on this subject in the Proposed Rules section of this issue of the **Federal Register**.

DATES: These regulations are effective January 22, 1998.

For dates of applicability, see §§ 1.141–15T, 1.142(f)(4)–1T(g), and 1.150–5T(b) of these regulations.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Allan Seller (202) 622–3980 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document amends the Income Tax Regulations (26 CFR part 1) under section 141 by providing special rules for state and local bonds issued for output facilities. This document also amends the Income Tax Regulations under section 142(f)(4) by providing rules for nongovernmental persons engaged in local furnishing of electric energy or gas using facilities financed with state or local bonds to make the election provided in that section. Proposed regulations §§ 1.141–7 and 1.141–8, published on December 30, 1994, (59 FR 67658) addressed the application of the private activity bond tests under section 141(b)(2) to output contracts for output facilities and the application of the $15 million limit under section 141(b)(4) to output facility financings. These sections (the 1994 proposed output regulations) are withdrawn. Public comments submitted on the 1994 proposed output regulations, however, have been taken into account in formulating these temporary regulations.

Explanation of Provisions

A. Section 1.141–7T Special Rules for Output Facilities

1. Basis for Special Rules for Output Facilities

The 1994 proposed output regulations contain special rules for applying the private business tests to output contracts. Among the reasons for special rules for output facilities are that governmentally-owned utilities are often under an open-ended obligation to assure service to their customers and that general public customers are ordinarily required to make continuing payments for service. Output facilities also require special rules because the

economic benefit provided by these facilities is usually the use of fungible property, such as electric power or water. The temporary regulations continue the approach of the proposed regulations, but contain a number of new provisions, consistent with the general principles of the existing regulations under § 1.103–7(b)(5), that take into account changes in the electric industry.

2. The Benefits and Burdens Standard

The 1994 proposed output regulations provide that a contract to sell output of a financed facility to a nongovernmental person may cause the private business tests of section 141(b) to be met if it has the effect of transferring to that nongovernmental person the benefits of owning the facility and the burdens of paying debt service on the facility. The temporary regulations adopt this standard, but clarify its application.

For purposes of the standard, the temporary regulations generally provide that use of output on a basis different from the general public has the effect of transferring the benefits of ownership. Similarly, contracts that provide a substantial certainty that payments for output will be made under the terms of the contract, other than on a short-term basis, have the effect of transferring the burden of paying debt service on a facility. The standard does not require that the burdens of ownership for general tax purposes be transferred to a nongovernmental person.

3. Requirements Contracts

The 1994 proposed output regulations provide that take or pay contracts, take contracts, and certain requirements contracts meet the benefits and burdens standard. Many commentators, noting that § 1.103–7(b)(5) does not expressly refer to requirements contracts, suggested that requirements contracts should never meet the benefits and burdens standard.

The temporary regulations narrow the rule for requirements contracts, by providing that a requirements contract meets the benefits and burdens test only to the extent that the issuer reasonably expects that it is substantially certain that payments for output will be made under the contract. Such a requirements contract is in substance equivalent to a take contract. A retail requirements contract generally does not meet this standard, unless the contract requires substantial termination payments or contains other terms that establish substantial certainty of payment. Whether the payments under a wholesale requirements contract are substantially certain to be made is determined on the basis of all the facts and circumstances, taking into account such factors as whether the purchaser's customer base has significant indicators of stability, whether the contract covers historical requirements of the purchaser, and whether the purchaser has agreed not to construct or acquire other power resources.

4. Special Rule for Output Contracts With Specific Performance Rights

The 1994 proposed output regulations provide that a requirements contract meets the benefits and burdens standard if the purchaser has priority rights to the output (or rights to control the allocation of the available output).

The temporary regulations generally provide that any output contract that provides the purchaser with specific rights to control the output or with other specific performance rights to the use of output of a financed facility meets the benefits and burdens test, even if the issuer reasonably expects that it is not substantially certain that payments will be made under the contract. This different standard applies to output contracts that provide the purchaser with specific performance rights because those contracts closely resemble leases, and, thus, provide more substantial rights to the use of a financed facility.

5. Security Interest Test

The 1994 proposed output regulations do not address how the security interest test applies to output contracts.

The temporary regulations provide that payments made or to be made under an output contract pledged as security for an issue are taken into account under the private security or payment test even if payment under the contract is not substantially certain. This rule is appropriate because it is reasonable to presume that payments under a contract pledged as security for an issue are material to the payment of debt service on an issue.

6. Use of Nameplate Capacity to Determine Available Output

The 1994 proposed output regulations measure the available output of a facility by reference to nameplate capacity, but further provide that, if nameplate capacity or its equivalent is greater than 150 percent of the average expected output, average expected output is used instead of nameplate capacity. In addition, nameplate capacity is reduced by scheduled maintenance. Commentators suggested that reference to nameplate capacity to determine available output is a bright-line, administrable test, and that the reductions to nameplate capacity in the 1994 proposed output regulations should be deleted.

The temporary regulations generally provide that nameplate capacity may be used as a reference to determine available output of a generating facility. This rule acknowledges that, consistent with prudent utility practice, governmentally-owned utilities may be required to acquire or construct facilities with excess capacity for their current or future reserves. To prevent tax-exempt financings that are inconsistent with the purposes of section 141, however, the temporary regulations provide that this rule does not apply if the issuer reasonably expects on the issue date that nongovernmental persons that are treated as private business users will purchase 30 percent or more of the actual output of the facility. In such a case, the Commissioner may determine available output on another reasonable basis. In addition, the temporary regulations clarify that, if a limited source of supply constrains the output of a facility (for example, if seasonal differences in water flow constrain output of a hydroelectric facility), the available output must be determined by taking into account these constraints. The temporary regulations also delete the rule that nameplate capacity is reduced by scheduled maintenance.

7. Exception for Swapping and Pooling Arrangements

The 1994 proposed output regulations provide that certain arrangements to swap and pool power do not meet the private business tests.

The temporary regulations simplify this exception and expand it, so that it includes swapping arrangements entered into to enhance reliability of a system.

8. Exceptions for Short-term Sales of Output

The 1994 proposed output regulations provide that 30-day agreements for spot sales of excess capacity do not result in private business use.

The temporary regulations provide that the exceptions for short-term use that apply to other types of arrangements under the general private activity bond rules in § 1.141–3 also apply to output contracts. Thus, in general an output contract that is available to the general public may have a term up to 180 days; an output contract that is not treated as general public use, but that is offered on the basis of generally applicable or uniformly applied rates, may have a term of up to 90 days; and an output

contract that is specially negotiated may have a term of up to 30 days.

9. Special Exceptions for Sales of Output Attributable to Excess Generating Capacity Which Mitigate Stranded Costs

The 1994 proposed output regulations provide that a single nonrenewable contract for a term of not greater than 1 year is not treated as private business use. Commentators suggested that longer term, renewable contracts to sell output attributable to excess generating capacity should be disregarded under the private business use test. Commentators noted that the excess generating capacity problem may be exacerbated by the development of open-access regulatory policies and other factors.

The temporary regulations respond to these special considerations by providing a more flexible exception for sales of output attributable to excess generating capacity that results from the offering of nondiscriminatory, open access tariffs. This exception is also consistent with the Federal Energy Regulatory Commission policy that utilities should take reasonable steps to mitigate the imposition of charges to recover legitimate, prudent, and verifiable stranded costs associated with providing open access. Under this exception, a contract to sell excess power is not treated as private business use if the term of the contract (including all renewal options) is not greater than 3 years, the issuer does not issue tax-exempt bonds to increase the capacity of its generation system during the term of the contract, the governmental owner offers non-discriminatory, open access transmission tariffs pursuant to the FERC rules (or comparable state law provisions pursuant to a plan approved by the FERC), all of the output sold under the contract is excess capacity resulting from participation in open access, the contract mitigates stranded costs of the owner that are attributable to entry into the open access system, and stranded costs recovered under the contract by that owner are used to redeem tax-exempt bonds as promptly as reasonably practical.

10. Special Exceptions for Transmission Facilities

The 1994 proposed output regulations provide special rules for transmission facilities, which are intended to respond to the development of regulatory policies that require or encourage open access to transmission systems. Under these special rules, in general, the use of transmission facilities is not private business use to the extent that it results from an order or actions taken in response to (or to prevent) an anticipated order by the United States that those facilities be used by a particular nongovernmental person, provided that the transmission facilities were sized based on the issuer's reasonable expectations about the amount of wheeling. The 1994 proposed output regulations contain a number of exceptions to this rule, which are designed to prevent the tax-exempt financing of facilities constructed for use by nongovernmental persons. The 1994 proposed output regulations also provide that an issuer must take remedial action if more than 20 percent of a transmission facility is so used by a nongovernmental person.

Commentators suggested that the exceptions for use of transmission systems should be made more flexible to accommodate the development of open access regulatory policies. Commentators noted that measurement of use of a transmission system raises a number of complex technical issues. For example, capacity or available output may be much more readily determined for a generating unit than for a transmission system. Some commentators suggested that all use of a transmission system pursuant to standard tariffs should be treated as general public use. Other commentators suggested that any rules addressing open access required by the FERC should also similarly address open access required by state public utility commissions.

The temporary regulations broaden the exceptions for use of transmission facilities, but do not treat all use of transmission facilities pursuant to standard tariffs as general public use. Under § 1.141–2(d), an action taken in response to a specific FERC order to wheel power under sections 211 and 212 of the Federal Power Act (16 U.S.C. 824j and 824k) would otherwise qualify for an exception from the deliberate action rule because it is taken in response to a regulatory directive made by the federal government. The temporary regulations additionally provide that an action taken in anticipation of such an order is not a deliberate action.

The temporary regulations also provide a special exception for transmission facilities pursuant to which an action is not treated as a deliberate action if it is taken to implement the offering of non-discriminatory, open access for the use of financed transmission facilities in a manner consistent with FERC rules, including reciprocity conditions of FERC Order No. 888 (61 FR 21540, May 10, 1996), pursuant to a plan approved by the FERC. The special exception also applies to orders and rules of state regulatory authorities pursuant to a plan approved by the FERC that are comparable to certain FERC orders and rules. This exception does not apply, however, to the sale, exchange, or other disposition of bond-financed transmission facilities to a nongovernmental person.

Section 1.141–2(d)(1) provides that an issue is an issue of private activity bonds if the issuer reasonably expects, as of the issue date, that the issue will meet either the private business tests or the private loan financing test or if the issuer takes a deliberate action, subsequent to the issue date, that causes the conditions of either the private business tests or the private loan financing test to be met. Thus, reasonable expectations about private business use of transmission facilities under non-discriminatory, open-access tariffs, must be taken into account on the issue date of bonds financing those facilities. A special transition rule applies to bonds (other than advance refunding bonds) that refund bonds issued prior to July 9, 1996 (the effective date of FERC Order No. 888). Because an issuer is in general not required to apply the temporary regulations to refunding bonds issued after the effective date that do not have a weighted average maturity longer than the remaining weighted average maturity of the refunded bonds, the special transition rule will apply only if the issuer chooses to apply the temporary regulations. Whether bonds issued after July 9, 1996, to finance output facilities met the reasonable expectations test of section 141 because of the possibility of actions taken to implement open access tariffs is appropriately determined on a facts and circumstances basis.

These special rules for transmission facilities are appropriate because of the unique statutory and regulatory regime that applies to transmission facilities.

B. Section 1.141–8T $15 Million Limitation for Output Facilities

1. Clarification of Computation of Nonqualified Amount

The 1994 proposed output regulations provide guidance on the special $15 million limitation on output facilities of section 141(b)(4). In general, this limitation is based on the ''nonqualified amount'' of an issue or issues that finance a single project.

The temporary regulations clarify that, in determining the total nonqualified amount for issues

financing a project, the nonqualified amount is first determined on an issue-by-issue basis, and that these amounts are then aggregated. The temporary regulations also provide a simpler method for determining how much the nonqualified amount of an issue is reduced when principal of the issue is paid. Under this method, the nonqualified amount of an issue is reduced by the ratio of adjusted issue price over issue price.

C. Section 1.142(f)(4)–1T Manner of Making Election to Terminate Tax-exempt Bond Financing

Section 142(f)(4) permits a person engaged in the local furnishing of electric energy or gas that uses facilities financed with exempt facility bonds under section 142(a)(8) and that expands its service area in a manner inconsistent with the requirements of sections 142(a)(8) and 142(f) to make an election to ensure that those bonds will continue to be treated as exempt facility bonds. In order to make the election the person engaged in local furnishing must, among other things, agree to redeem all outstanding bonds that financed the facilities not later than 6 months after the later of the earliest date on which the bonds may be redeemed or the date of the election. The temporary regulations set forth the required time and manner of making this election. In general, the election must be made on or before the 90th day after the later of (i) the date of the service area expansion or (ii) the effective date of the temporary regulations.

D. § 1.150–5T Filing Notices and Elections

The temporary regulations specify that notices and elections under section 142(f)(4)(B) and § 1.141–12(d)(3) must be filed with the Chief, Employee Plans and Exempt Organizations Division of the appropriate key district office.

E. Need for Temporary Regulations and Request for Public Comments

Congress passed the Federal Energy Act of 1992 to encourage deregulation of the electric power industry. Since that time, the Federal Energy Regulatory Commission and various states have adopted policies to open up access to transmission facilities. Treasury and the IRS are aware that these initiatives are causing rapid changes in the electric power industry, and have received many comments asking for immediate guidance under section 141 regarding the effect on the tax-exempt status of bonds of certain restructuring transactions necessary for utilities to participate in a deregulated electric utility environment. For example, several comments state that the restructuring initiatives in various states and regions may not proceed until Treasury and the IRS clarify the extent to which municipal utilities may transfer control of certain assets financed with tax-exempt bonds to an independent system operator. Based on these considerations, it has been determined that immediate regulatory guidance is necessary to ensure efficient administration of the tax laws.

The regulations are published in both temporary and proposed form to provide immediate guidance on which issuers can rely in evaluating their participation in open access regimes, while providing the opportunity for public comment. In addition, Treasury and the IRS believe that providing guidance on the effect of open access participation is more appropriately accomplished by regulation than by private letter ruling. Treasury and the IRS are also aware, however, that restructuring efforts are evolving and uncertain, and that new types of arrangements may be developed to implement restructuring. Many of the issues that will arise may need to be addressed legislatively. Accordingly, the regulations are published in temporary form with the expectation the Treasury and the IRS will reexamine them in light of new developments within the next three years.

Comments are invited on whether further guidance is needed to address the new types of contractual arrangements that are arising in the electric power industry. In particular, comments are invited on whether there are any instances in which an option of a nongovernmental purchaser to purchase output of a bond-financed facility should not be taken into account as private business use.

Effective Dates

Sections 1.141–7T and 1.141–8T are applicable to bonds issued on or after February 23, 1998.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations.

It is hereby certified that the provisions of these regulations that impose a collection of information requirement on small entities do not have a significant impact on a substantial number of small entities. This certification is based upon the fact that in the years 1987 through 1993 a total of only 61 different state or local government issuers of exempt facility bonds issued under section 142(f) for facilities for the local furnishing of electric energy or gas filed information returns with the Internal Revenue Service under section 149(e). Further, an election under section 142(f)(4) is in no event required to be filed with the Internal Revenue Service more than once. Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. Chapter 6) is not required. Pursuant to section 7805(f) of the Internal Revenue Code, these temporary regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal authors of these regulations are Michael G. Bailey and Allan Seller, Office of Assistant Chief Counsel (Financial Institutions & Products), and Nancy M. Lashnits, formerly of that office. However, other personnel from IRS and the Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

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

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 1.141–0 is amended by removing the entries for §§ 1.141–7 and 1.141–8 and adding entries to the table in numerical order to read as follows:

§ 1.141–0 Table of contents.

* * * * *

§ 1.141–7T Special rules for output facilities (temporary).

(a) Overview.
(b) Definitions.
(1) Available output.
(2) Measurement period.
(3) Sale at wholesale.
(4) Stranded costs.
(5) Take contract and take or pay contract.
(6) Transmission facilities.
(7) Nonqualified amount.
(c) Output contracts.

(1) General rule.
(2) Benefits and burdens test.
(3) Take contract or take or pay contract.
(4) Requirements contracts.
(5) Contract with specific performance rights.
(d) Measurement of private business use.
(e) Measurement of private security or payment.
(f) Exceptions for certain contracts.
(1) Small purchases of output.
(2) Swapping and pooling arrangements.
(3) Short-term output contracts.
(4) Special 3-year exception for sales of output attributable to excess generating capacity resulting from participation in open access.
(5) Special exceptions for transmission facilities.
(6) Certain conduit parties disregarded.
(g) Allocations of output facilities and systems.
(1) Facts and circumstances analysis.
(2) Illustrations.
(3) Transmission contracts.
(4) Allocation of payments.
(h) Examples.

§ 1.141–8T $15 million limitation for output facilities (temporary).

(a) In general.
(1) General rule.
(2) Reduction in $15 million output limitation for outstanding issues.
(3) Benefits and burdens test applicable.
(b) Definition of project.
(1) General rule.
(2) Separate ownership.
(3) Generating property.
(4) Transmission.
(5) Subsequent improvements.
(6) Replacement property.
(c) Examples.

* * * * *

§ 1.141–15T Effective dates (temporary).

(a) through (e) [Reserved].
(f) Effective dates for certain regulations relating to output facilities.
(1) General rule.
(2) Transition rule for requirement contracts.
(g) Refunding bonds.
(h) Permissive retroactive application.
(i) Permissive retroactive application of certain regulations pertaining to output contracts.

* * * * *

Par. 3. Section 1.141–2 is amended by adding a sentence at the end of paragraph (d)(3)(ii)(B) to read as follows:

§ 1.141–2 Private activity bond tests.

* * * * *

(d) * * *
(3) * * *
(ii) * * *
(B) * * * See § 1.141–7T(f)(5).

* * * * *

§§ 1.141–7 and 1.141–8 [Removed]

Par. 3a. Sections 1.141–7 and 1.141–8 are removed.

Par. 4. Sections 1.141–7T and 1.141–8T are added to read as follows:

§ 1.141–7T Special rules for output facilities (temporary).

(a) *Overview*. This section provides special rules to determine whether arrangements for purchases of output from an output facility cause an issue of bonds to meet the private business tests. For this purpose, unless otherwise stated, water facilities are treated as output facilities. Section 1.141–3 generally applies to determine whether other types of arrangements for use of an output facility cause an issue to meet the private business tests.

(b) *Definitions*. For purposes of this section and § 1.141–8T, the following definitions and rules apply:

(1) *Available output*. The available output of a facility financed by an issue is determined by multiplying the number of units produced or to be produced by the facility in one year by the number of years in the measurement period of that facility for that issue.

(i) *Generating facilities*. The number of units produced or to be produced by a generating facility in one year is determined by reference to its nameplate capacity or the equivalent (or where there is no nameplate capacity or the equivalent, its maximum capacity), which is not reduced for reserves or other unutilized capacity.

(ii) *Transmission and other output facilities*. (A) *In general*. For transmission, cogeneration, and other output facilities, available output must be measured in a reasonable manner to reflect capacity.

(B) *Electric transmission facilities*. Measurement of the available output of all or a portion of electric transmission facilities may be determined in a manner consistent with the reporting rules and requirements for transmission networks promulgated by the Federal Energy Regulatory Commission (FERC). For example, for a transmission network, the use of aggregate load and load share ratios in a manner consistent with the requirements of the FERC may be reasonable. In addition, depending on the facts and circumstances, measurement of the available output of transmission facilities using thermal capacity or transfer capacity may be reasonable.

(iii) *Special rule for facilities acquired or constructed primarily for use by private business users*. If an issuer reasonably expects on the issue date that persons that are treated as private business users will purchase more than 30 percent of the actual output of the facility financed with the issue, the Commissioner may determine the number of units produced or to be produced by the facility in one year on a reasonable basis other than by reference to nameplate capacity, such as the average expected annual output of the facility. For example, the Commissioner may treat the reasonably expected annual output of a financed peaking electric generating unit as the available output of that unit if the issuer reasonably expects, on the issue date of bonds that finance the unit, that an investor-owned utility will purchase 30 percent of the actual output of the facility under a take or pay contract, even if the amount of output purchased is less than 10 percent of the available output determined by reference to nameplate capacity. The reasonably expected annual output of the generating facility must be consistent with the capacity reported for prudent reliability purposes.

(iv) *Special rule for facilities with a limited source of supply*. If a limited source of supply constrains the output of an output facility, the number of units produced or to be produced by the facility must be determined by reasonably taking into account those constraints. For example, the available output of a hydroelectric unit must be determined by reference to the reasonably expected annual flow of water through the unit.

(2) *Measurement period*. The measurement period of an output facility financed by an issue is determined under § 1.141–3(g).

(3) *Sale at wholesale*. For purposes of this section, a sale at wholesale means a sale of output to any person for resale.

(4) *Stranded costs*. For purposes of this section, *stranded costs* means stranded costs as defined in 18 CFR 35.26 and costs that an issuer incurred to provide service to a wholesale or retail customer that subsequently becomes, in whole or in part, an unbundled transmission customer and that an issuer is authorized to recover by the FERC or a state regulatory authority.

(5) *Take contract and take or pay contract*. A *take contract* is an output contract under which a purchaser agrees to pay for the output under the contract if the output facility is capable of providing the output. A take or pay contract is an output contract under which a purchaser agrees to pay for the output under the contract, whether or not the output facility is capable of providing the output.

(6) *Transmission facilities*. *Transmission facilities* are facilities for the transmission or distribution of output. Transmission facilities include facilities necessary to provide ancillary services required to be offered as part of open access transmission tariffs under rules promulgated by the FERC under sections 205 and 206 of the Federal

Power Act (16 U.S.C. 824d and 824e). Thus, if a facility also serves another function (for example, a facility that provides for operating reserves for transmission and also provides generation) an allocable portion of the facility is treated as a transmission facility.

(7) *Nonqualified amount.* The nonqualified amount with respect to an issue is determined under section 141(b)(8).

(c) *Output contracts*—(1) *General rule.* The purchase by a nongovernmental person of the available output of an output facility (output contract) financed with the proceeds of an issue is taken into account under the private business tests if the purchase has the effect of transferring substantial benefits of owning the facility and substantial burdens of paying the debt service on bonds used (directly or indirectly) to finance the facility (the benefits and burdens test). See paragraph (c)(5) of this section for other output contract arrangements that are taken into account under the private business tests. See also § 1.141–8T for rules for when an issue that finances an output facility (other than a water facility) meets the private business tests because the nonqualified amount of the issue exceeds $15 million.

(2) *Benefits and burdens test*—(i) *Benefits of ownership.* An output contract transfers substantial benefits of owning a facility if the contract gives the purchaser (directly or indirectly) rights to capacity of the facility on a basis that is preferential to the rights of the general public.

(ii) *Burdens of paying debt service.* An output contract transfers substantial burdens of paying debt service on an issue to the extent that the issuer reasonably expects that it is substantially certain that payments will be made under the terms of the contract (disregarding default, insolvency, or other similar circumstances). For example, an output contract is treated as transferring burdens of paying debt service on an issue if payments must be made upon contract termination.

(iii) *Payments pursuant to pledged contract.* Payments made or to be made under the terms of an output contract that is pledged as security for an issue are taken into account under the private business tests even if the issuer reasonably expects that it is not substantially certain that payments will be made under the contract (disregarding default, insolvency, or other similar circumstances). For this purpose, an output contract is pledged as security only if the bond documents provide that the pledged contract cannot be substantially amended without the consent of bondholders or a trustee for the bondholders.

(3) *Take contract or take or pay contract*—(i) *In general.* The benefits and burdens test is met if a nongovernmental person agrees pursuant to a take contract or a take or pay contract to purchase the available output of a facility. See paragraphs (d) and (e) of this section for rules regarding measuring the use of, and payments on debt service for, an output facility for determining whether the private business tests are met.

(ii) *Transmission contracts.* In the case of a transmission facility, an agreement to provide firm or priority transmission services is generally treated as a take contract or a take or pay contract. The extent to which transmission services are interruptible is an important factor indicating that a contract for transmission services is not treated as a take contract or a take or pay contract.

(4) *Requirements contracts*—(i) *In general.* A requirements contract under which a nongovernmental person agrees to purchase all or part of its output requirements is taken into account under the private business tests only to the extent that, based on all the facts and circumstances, the contract meets the benefits and burdens test. See § 1.141–15T(f)(3) for special effective dates for the application of this paragraph (c)(4) to issues financing facilities subject to requirements contracts.

(ii) *Significant factors.* Significant factors that tend to establish that the benefits and burdens test is met under the rule set forth in paragraph (c)(4)(i) of this section include—

(A) The purchaser's customer base has significant indicators of stability, such as large size, diverse composition, and a substantial residential component;

(B) The contract covers historical requirements of the purchaser, rather than only projected requirements that are in addition to historical requirements; and

(C) The purchaser agrees not to construct or acquire other power resources to meet the requirements covered by the contract.

(iii) *Special rule for retail requirements contracts.* In general, a requirements contract that is not a sale at wholesale does not meet the benefits and burdens test because the obligation to make payments on the contract is contingent on the output requirements of a single user. Such a requirements contract in general meets the benefits and burdens test, however, to the extent that it contains contractual terms that obligate the purchaser to make payments that are not contingent on the output requirements of the purchaser (such as significant termination payments) or that obligate the purchaser to have output requirements. For example, a requirements contract with an industrial purchaser meets the benefits and burdens test if the purchaser enters into additional contractual obligations with the issuer or another governmental unit not to cease operations.

(5) *Contract with specific performance rights.* An output contract that provides the purchaser with specific rights to control the output of a facility or with other specific performance rights to the use of output of a facility is generally taken into account under the private business tests, even if the benefits and burdens test is not met. Payments made and to be made under such a contract are generally taken into account under the private payment test, even if the issuer does not reasonably expect that it is substantially certain that payments will be made under the contract (disregarding default, insolvency, or other similar circumstances). A customer's normal entitlement to receive utility service (for example, an entitlement to reasonable protection against blackouts in times of high demand through rotating the effects of blackouts) is not treated as a specific performance right for this purpose.

(d) *Measurement of private business use.* If an output contract results in private business use under this section, the amount of private business use generally is the capacity that must be reserved for the nongovernmental person under prudent reliability standards. For example, in the case of a take contract for a peaking electric generating unit, under which a nongovernmental person has priority rights to use capacity at any time for the entire term of the bonds, but under which the total energy purchases are limited in any one year to 10 percent of annual available output (determined by reference to nameplate capacity), the amount of private business use is the amount of capacity that must be reserved for that nongovernmental person under prudent reliability standards, which may be as much as 100 percent.

(e) *Measurement of private security or payment.* The measurement of payments made or to be made by nongovernmental persons under output contracts as a percent of the debt service of an issue is determined under the rules provided in § 1.141–4.

(f) *Exceptions for certain contracts*—(1) *Small purchases of output.* An

output contract is not taken into account under the private business tests if the purchaser is not required under the contract to make a payment that is substantially certain to be made under paragraph (c)(2)(ii) of this section in any year greater than 0.5 percent of the average annual debt service on an issue that finances the output facility.

(2) *Swapping and pooling arrangements.* An agreement that provides for swapping or pooling of output by one or more governmental persons and one or more nongovernmental persons does not result in private business use of the output facility owned by the governmental person to the extent that—

(i) The swapped output is reasonably expected to be approximately equal in value (determined over periods of one year or less); and

(ii) The purpose of the agreement is to enable each of the parties to satisfy different peak load demands, to accommodate temporary outages, to diversify supply, or to enhance reliability in accordance with prudent reliability standards.

(3) *Short-term output contracts.* The exceptions for short-term arrangements provided in § 1.141–3 (c) and (d)(3) apply to output contracts. For example, a spot sale for use for a period of 90 days on the basis of rates that are generally applicable and uniformly applied generally does not result in private business use, and a spot sale for use for a period of 30 days on the basis of rates that are specially negotiated generally does not result in private business use.

(4) *Special 3-year exception for sales of output attributable to excess generating capacity resulting from participation in open access.* The purchase of output of an output facility (not including a water facility) by a nongovernmental person is not treated as private business use if all of the following requirements are met:

(i) The term of the contract is not longer than 3 years, including all renewal options.

(ii) The issuer does not make expenditures to increase the generating capacity of its system during the term of the contract that are, or will be, financed with proceeds of tax-exempt bonds.

(iii) The governmental owner offers non-discriminatory, open access transmission tariffs for use of its transmission system pursuant to rules promulgated by the FERC under sections 205 and 206 of the Federal Power Act (16 U.S.C. 824d and 824e) (or comparable provisions of state law pursuant to a plan approved by the FERC).

(iv) All of the output sold under the contract is attributable to excess capacity resulting from the offer of the non-discriminatory, open access transmission tariffs referred to in paragraph (f)(5)(ii) of this section.

(v) The contract mitigates stranded costs of the governmental owner that are attributable to the offer of the non-discriminatory, open access transmission tariffs referred to in paragraph (f)(5)(ii) of this section.

(vi) Any stranded costs recovered by the governmental owner (including amounts recovered under the contract) with respect to the output facility under rules promulgated by the FERC under the Federal Power Act (or comparable provisions of state law) are applied as promptly as is reasonably practical to redeem tax-exempt bonds that financed that facility in a manner consistent with § 1.141–12.

(5) *Special exceptions for transmission facilities*—(i) *Mandated wheeling.* Entering into a contract for the use of transmission facilities financed by an issue is not treated as a deliberate action under § 1.141–2(d) if—

(A) The contract is entered into in response to (or in anticipation of) an order by the United States under sections 211 and 212 of the Federal Power Act (16 U.S.C. 824j and 824k) (or a state regulatory authority under comparable provisions of state law pursuant to a plan approved by the FERC); and

(B) The terms of the contract are bona fide and arm's length, and the consideration paid is consistent with the provisions of section 212(a) of the Federal Power Act.

(ii) *Actions taken to implement non-discriminatory, open access.* An action is not treated as a deliberate action under § 1.141–2(d) if it is taken to implement the offering of non-discriminatory, open access tariffs for the use of transmission facilities financed by an issue in a manner consistent with rules promulgated by the FERC under sections 205 and 206 of the Federal Power Act (16 U.S.C. 824d and 824e) (or by a state regulatory authority under comparable provisions of state law pursuant to a plan approved by the FERC). This paragraph (f)(5)(ii) does not apply, however, to the sale, exchange, or other disposition of transmission facilities to a nongovernmental person.

(iii) *Application to reasonable expectations test to certain current refunding bonds.* An action taken or to be taken with respect to transmission facilities refinanced by an issue is not taken into account under the reasonable expectations test of § 1.141–2(d) if—

(A) The action is described in paragraph (f)(5) (i) or (ii) of this section;

(B) The bonds of the issue are current refunding bonds that, directly or indirectly, refund bonds issued before July 9, 1996; and

(C) The weighted average maturity of the refunding bonds is not greater than the remaining weighted average maturity of those prior bonds.

(6) *Certain conduit parties disregarded.* A nongovernmental person acting solely as a conduit for the exchange of output among governmentally owned and operated utilities is disregarded in determining whether the private business tests are met with respect to financed facilities owned by a governmental person. Use of property by a power marketer in the trade or business of purchasing and reselling power, however, is taken into account under the private business tests.

(g) *Allocations of output facilities and systems*—(1) *Facts and circumstances analysis.* Whether output sold under an output contract is allocated to a particular facility (for example, a generating unit), to the entire system of the seller of that output (net of any uses of that system output allocated to a particular facility), or to a portion of a facility is based on all the facts and circumstances. Significant factors to be considered in determining the allocation of an output contract to financed property are the following:

(i) The extent to which it is physically possible to deliver output to or from a particular facility or system.

(ii) The terms of a contract relating to the delivery of output (such as delivery limitations and options or obligations to deliver power from additional sources).

(iii) Whether a contract is entered into as part of a common plan of financing for a facility.

(iv) The method of pricing output under the contract, such as the use of market rates rather than rates designed to pay debt service of tax-exempt bonds used to finance a particular facility.

(2) *Illustrations.* The following illustrate the factors set forth in paragraph (g)(1) of this section:

(i) *Physical possibility.* Output from a generating unit that is fed directly into a low voltage distribution system of the owner of that unit and that cannot physically leave that distribution system generally must be allocated to those receiving electricity through that distribution system. Output may be allocated without regard to physical limitations, however, if exchange or similar agreements provide output to a purchaser where, but for the exchange

agreements, it would not be possible for the seller to provide output to that purchaser.

(ii) *Contract terms relating to performance.* A contract to provide a specified amount of electricity from a system, but only when at least that amount of electricity is being generated by a particular unit, is allocated to that unit. For example, a contract to buy 20 MW of system power with a right to take up to 40 percent of the actual output of a specific 50 MW facility whenever total system output is insufficient to meet all of the seller's obligations generally is allocated to the specific facility rather than to the system.

(iii) *Common plan of financing.* A contract entered into as part of a common plan of financing for a facility generally is allocated to the facility if debt service for the issue of bonds is reasonably expected to be paid, directly or indirectly, from payments substantially certain to be made under the contract (disregarding default, insolvency, or other similar circumstances).

(iv) *Pricing method.* Pricing based on the capital and generating costs of a particular turbine tends to indicate that output under the contract is properly allocated to that turbine.

(3) *Transmission contracts.* Whether use under an output contract for transmission is allocated to a particular facility or to a transmission network is based on all the facts and circumstances, in a manner similar to paragraphs (g) (1) and (2) of this section. In general, the method used to determine payments under a contract is a more significant contract term for this purpose than nominal contract path. In general, if reasonable and consistently applied, the determination of use of transmission facilities under an output contract may be based on a method used by third parties, such as reliability councils.

(4) *Allocation of payments.* Payments for output provided by an output facility financed with two or more sources of funding are generally allocated under the rules in § 1.141–4(c).

(h) *Examples.* The following examples illustrate the application of this section:

Example 1. Joint ownership. Z, an investor-owned electric utility, and City H agree to construct an electric generating facility of a size sufficient to take advantage of the economies of scale. H will issue $50 million of its 25-year bonds, and Z will use $100 million of its funds for construction of a facility they will jointly own as tenants in common. Each of the participants will share in the ownership, output, and operating expenses of the facility in proportion to its contribution to the cost of the facility, that is, one-third by H and two-thirds by Z. H's bonds will be secured by H's ownership interest in the facility and by revenues to be derived from its share of the annual output of the facility. H will need only 50 percent of its share of the annual output of the facility during the first 20 years of operations. It agrees to sell 10 percent of its share of the annual output to Z for a period of 20 years pursuant to a contract under which Z agrees to take that power if available. The facility will begin operation, and Z will begin to receive power, 4 years after the H bonds are issued. The measurement period for the property financed by the issue is 21 years. H also will sell the remaining 40 percent of its share of the annual output to numerous other private utilities under contracts of 90 days or less entered into under a prevailing rate schedule, including demand charges. No contracts will be executed obligating any person other than Z to purchase any specified amount of the power for any specified period of time. No person (other than Z) will make payments substantially certain to be made (disregarding default, insolvency, or other similar circumstances) under paragraph (c)(2) of this section that will result in a transfer of substantial burdens of paying debt service on bonds used directly or indirectly to provide H's share of the facilities. The bonds are not private activity bonds, because H's one-third interest in the facility is not treated as used by the other owners of the facility. Although 10 percent of H's share of the annual output of the facility will be used in the trade or business of Z, a non-governmental person, under the rule in paragraph (c) of this section, that portion constitutes not more than 10 percent of the available output of H's ownership interest in the facility.

Example 2. Requirements contract treated as take contract. (i) City J issues 20-year bonds to acquire an electric generating facility having a reasonably expected economic life substantially greater than 20 years and a nameplate capacity of 100 MW. The available output of the facility under paragraphs (b)(1) of this section is approximately 17,520,000 MWh. On the issue date, J enters into a contract with T, an investor-owned utility, to provide T with all of its power requirements for a period of 10 years, commencing on the issue date. J reasonably expects that T will actually purchase an average of 20 MW over the 10-year period. Based on all of the facts and circumstances, including the size, diversity, and composition of T's customer base, J reasonably expects that it is substantially certain (disregarding default, insolvency, or other similar circumstances) that T will actually purchase only an average of 16 MW over the 10-year period. The contract is a requirements contract that must be taken into account under the private business tests pursuant to paragraph (c)(4) of this section because it provides T with substantial benefits of ownership (rights to capacity) and obligates T with substantial burdens of making payments that the issuer reasonably expects are substantially certain.

(ii) J is required to reserve for T's use 40 MW of capacity in accordance with prudent reliability standards. Under paragraph (d) of this section, the amount of private business use under this contract, therefore, is approximately 20 percent (40 MW × 24 hours × 365 days × 10 years, or 3,504,000 MWh) of the available output. Accordingly, the issue meets the private business use test. J reasonably expects that the amount to be paid for an average of 16 MW of power (less the operation and maintenance costs directly attributable to generating that 16 MW of power), will be more than 10 percent of debt service on the issue on a present-value basis. The payment for 16 MW of power is an amount that J reasonably expects is substantially certain to be made under paragraph (c)(2) of this section. Accordingly, the issue meets the private security or payment test because J reasonably expects that it is substantially certain that payment of more than 10 percent of the debt service will be indirectly derived from payments by T. The bonds are private activity bonds under paragraph (c) of this section. Further, if 20 percent of the sale proceeds of the issue is greater than $15 million and the issue meets the private security or payment test with respect to the $15 million output limitation, the bonds are also private activity bonds under section 141(b)(4). See § 1.141–8T.

Example 3. Allocation of existing contracts to new facilities. Power Authority K, a political subdivision created by the legislature in State X to own and operate certain power generating facilities, sells all of the power from its existing facilities to four private utility systems under contracts executed in 1999, under which the four systems are required to take or pay for specified portions of the total power output until the year 2029. Existing facilities supply all of the present needs of the four utility systems, but their future power requirements are expected to increase substantially beyond the capacity of K's current generating system. K issues 20-year bonds in 2004 to construct a large generating facility. As part of the financing plan for the bonds, a fifth private utility system contracts with K to take or pay for 15 percent of the available output of the new facility. The balance of the output of the new facility will be available for sale as required, but initially it is not anticipated that there will be any need for that power. The revenues from the contract with the fifth private utility system will be sufficient to pay less than 10 percent of the debt service on the bonds (determined on a present value basis). The balance, which will exceed 10 percent of the debt service on the bonds, will be paid from revenues derived from the contracts with the four systems initially from sale of power produced by the old facilities. The output contracts with all the private utilities are allocated to K's entire generating system. See paragraphs (g)(1) and (2) of this section. Thus, the bonds meet the private business use test because more than 10 percent of the proceeds will be used in the trade or business of a nongovernmental person. In addition, the bonds meet the private payment or security test because payment of more than 10 percent of the debt service, pursuant to underlying arrangements, will be derived from payments in respect of property used for a private business use.

Example 4. Allocation to displaced resource. Municipal utility MU, a political subdivision, purchases all of the electricity required to meet the needs of its customers (1,000 MW) from B, an investor-owned utility that operates its own electric generating facilities, under a 50-year take or pay contract. MU does not anticipate that it will require additional electric resources, and any new resources would produce electricity at a higher cost to MU than its cost under its contract with B. Nevertheless, B encourages MU to construct a new generating plant sufficient to meet MU's requirements. MU issues obligations to construct facilities that will produce 1,000 MW of electricity. MU, B, and I, another investor-owned utility, enter into an agreement under which MU assigns to I its rights under MU's take or pay contract with B. Under this arrangement, I will pay MU, and MU will continue to pay B, for the 1,000 MW. I's payments to MU will at least equal the amounts required to pay debt service on MU's bonds. In addition, under paragraph (g)(1)(iii) of this section, the contract among MU, B, and I is entered into as part of a common plan of financing of the MU facilities. Under all the facts and circumstances, MU's assignment to I of its rights under the original take or pay contract is allocable to MU's new facilities under paragraph (g) of this section. Because I is a nongovernmental person, MU's bonds are private activity bonds.

Example 5. Transmission facilities transferred to independent system operator. (i) In 1998, the public utilities commission of State C adopts a plan for restructuring its electric power industry. The plan fosters competition by providing both wholesale and retail customers with non-discriminatory access to transmission facilities within the State. The plan provides that investor-owned utilities will transfer operating control over all of their transmission assets to an independent system operator (ISO), which is a nongovernmental person that will operate those combined assets as a single, state-wide system. Municipally-owned utilities are eligible for, but are not required to participate in, the open access system implemented by the ISO. The functions of the ISO include control of transmission access and pricing, scheduling transmission, control area operations, and settlements and billing. In addition, under certain circumstances the ISO may order the transmission owners to construct additional transmission facilities. The restructuring plan is approved by the FERC pursuant to sections 205 and 206 of the Federal Power Act.

(ii) In 1994 City D had issued bonds to finance improvements to its transmission system. In 1998, D transfers operating control of its transmission system to the ISO pursuant to the restructuring plan. At the same time, D chooses to apply the private activity bond regulations of §§ 1.141–0 through 1.141–15 to the 1994 bonds. The operation of the financed facilities by the ISO does not meet the exception for management contracts that do not give rise to private business use under § 1.141–3(b)(4)(iii)(C) because it is not a contract solely for the operation of a facility under that exception. Under the special exception in paragraph (f)(5) of this section, however, the transfer of control is not treated as a deliberate action. Accordingly, the transfer of control does not cause the 1994 bonds to meet the private activity bond tests.

Example 6. Current refunding. The facts are the same as in *Example 5* of this paragraph (h), and in addition D issues bonds in 1999 to currently refund the 1994 bonds. The weighted average maturity of the 1999 bonds is not greater than the remaining weighted average maturity of the 1994 bonds. D chooses to apply the private activity bond regulations of §§ 1.141–0 through 1.141-15 to the refunding bonds. In general, reasonable expectations must be separately tested on the date that refunding bonds are issued under § 1.141–2(d). Under the special exception in paragraph (f)(5) of this section, however, the transfer of the financed facilities to the ISO need not be taken into account in applying the reasonable expectations test to the refunding bonds.

§ 1.141–8T $15 million limitation for output facilities (temporary).

(a) *In general*—(1) *General rule.* Section 141(b)(4) provides a special private activity bond limitation (the $15 million output limitation) for issues 5 percent or more of the proceeds of which are to be used to finance output facilities (other than a facility for the furnishing of water). Under this rule, a bond is a private activity bond under the private business tests of section 141(b)(1) and (2) if the nonqualified amount with respect to output facilities financed by the proceeds of the issue exceeds $15 million. The $15 million output limitation applies in addition to the private business tests of section 141(b)(1) and (2). Under section 141(b)(4) and paragraph (a)(2) of this section, the $15 million output limitation is reduced in certain cases. Specifically, an issue meets the test in section 141(b)(4) if both of the following tests are met:

(i) More than $15 million of the proceeds of the issue to be used with respect to an output facility are to be used for a private business use. Investment proceeds are disregarded for this purpose if they are not allocated disproportionately to the private business use portion of the issue.

(ii) The payment of the principal of, or the interest on, more than $15 million of the sales proceeds of the portion of the issue used with respect to an output facility is (under the terms of the issue or any underlying arrangement) directly or indirectly—

(A) Secured by any interest in an output facility used or to be used for a private business use (or payments in respect of such an output facility); or

(B) To be derived from payments (whether or not to the issuer) in respect of an output facility used or to be used for a private business use.

(2) *Reduction in $15 million output limitation for outstanding issues*—(i) *General rule.* In determining whether an issue more than 5 percent of the proceeds of which are to be used with respect to an output facility consists of private activity bonds under the $15 million output limitation, the $15 million limitation on private business use and private security or payments is applied by taking into account the aggregate nonqualified amounts of any outstanding bonds of other issues 5 percent or more of the proceeds of which are or will be used with respect to that output facility or any other output facility that is part of the same project.

(ii) *Bonds taken into account.* For purposes of this paragraph (a)(2), in applying the $15 million output limitation to an issue (the later issue), a tax-exempt bond of another issue (the earlier issue) is taken into account if—

(A) That bond is outstanding on the issue date of the later issue;

(B) That bond will not be redeemed within 90 days of the issue date of the later issue in connection with the refunding of that bond by the later issue; and

(C) More than 5 percent of the sale proceeds of the earlier issue financed an output facility that is part of the same project as the output facility that is financed by more than 5 percent of the sale proceeds of the later issue.

(3) *Benefits and burdens test applicable*—(i) *In general.* In applying the $15 million output limitation, the benefits and burdens test of § 1.141–7T applies, except that ''$15 million'' is substituted for ''10 percent'', or ''5 percent'' as appropriate.

(ii) *Earlier issues for the project.* If bonds of an earlier issue are outstanding and must be taken into account under paragraph (a)(2) of this section, the nonqualified amount for that earlier issue is multiplied by a fraction, the numerator of which is the adjusted issue price of the earlier issue as of the issue date of the later issue, and the denominator of which is the issue price of the earlier issue. Pre-issuance accrued interest as defined in § 1.148–1(b) is disregarded for this purpose.

(b) *Definition of project*—(1) *General rule.* For purposes of paragraph (a)(2) of this section, *project* has the meaning provided in this paragraph. Facilities that are functionally related and subordinate to a project are treated as part of that same project. Facilities having different purposes or serving different customer bases are not ordinarily part of the same project. For example, the following are generally not part of the same project—

(i) Generation and transmission facilities;

(ii) Separate facilities designed to serve wholesale customers and retail customers; and

(iii) A peaking unit and a baseload unit.

(2) *Separate ownership.* Except as otherwise provided in this paragraph (b)(2), facilities that are not owned by the same person are not part of the same project. If different governmental persons act in concert to finance a project, however (for example as participants in a joint powers authority), their interests are aggregated with respect to that project to determine whether the $15 million output limitation is met. In the case of undivided ownership interests in a single output facility, property that is not owned by different persons is treated as separate projects only if the separate interests are financed—

(i) With bonds of different issuers; and

(ii) Without a principal purpose of avoiding the limitation in this section.

(3) *Generating property*—(i) *Property on same site.* In the case of generation and related facilities, *project* means property located at the same site.

(ii) *Special rule for generating units.* Separate generating units are not part of the same project, if one unit is reasonably expected, on the date of each issue that finances the project, to be placed in service more than 3 years before the other. Common facilities or property that will be functionally related to more than one generating unit must be allocated on a reasonable basis. If a generating unit already is constructed or is under construction (the first unit) and bonds are to be issued to finance an additional generating unit (the second unit), all costs for any common facilities paid or incurred before the earlier of the issue date of bonds to finance the second unit or the commencement of construction of the second unit are allocated to the first unit. At the time that bonds are issued to finance the second unit (or, if earlier, upon commencement of construction of that unit), any remaining costs of the common facilities may be allocated among the first and second units so that in the aggregate the allocation is reasonable.

(4) *Transmission.* In the case of transmission facilities, *project* means functionally related or contiguous property and property for ancillary services, such as property required to be included in open access transmission tariffs under rules of the FERC. Separate transmission facilities are not part of the same project if one facility is reasonably expected, on the issue date of each issue that finances the project, to be placed in service more than 2 years before the other.

(5) *Subsequent improvements*—(i) *In general.* An improvement to generating or transmission facilities that is not part of the original design of those facilities (the original project) is not part of the same project as the original project if the construction, reconstruction, or acquisition of that improvement commences more than 3 years after the original project was placed in service and the bonds issued to finance that improvement are issued more than 3 years after the original project was placed in service.

(ii) *Special rule for transmission facilities.* An improvement to transmission facilities that is not part of the original design of that property is not part of the same project as the original project if the issuer did not reasonably expect the need to make that improvement when it commenced construction of the original project and the construction, reconstruction, or acquisition of that improvement is mandated by the federal government or a state regulatory authority to accommodate requests for wheeling.

(6) *Replacement property.* For purposes of this section, property that replaces existing property of an output facility is treated as part of the same project as the replaced property unless—

(i) The need to replace the property was not reasonably expected on the issue date or the need to replace the property occurred more than 3 years before the issuer reasonably expected (determined on the issue date of the bonds financing the property) that it would need to replace the property; and

(ii) The bonds that finance (and refinance) the replaced property have a weighted average maturity that is not greater than 120 percent of the reasonably expected economic life of the replaced property.

(c) *Example.* The application of the provisions of this section is illustrated by the following example:

Example. (i) Power Authority K, a political subdivision, intends to issue a single issue of tax-exempt bonds at par with a stated principal amount and sales proceeds of $500 million to finance the acquisition of an electric generating facility. No portion of the facility will be used for a private business use, except that L, an investor-owned utility, will purchase 10 percent of the output of the facility under a take contract and will pay 10 percent of the debt service on the bonds. The nonqualified amount with respect to the bonds is $50 million.

(ii) The maximum amount of tax-exempt bonds that may be issued for the acquisition of an interest in the facility in paragraph (i) of this *Example* is $465 million (that is, $450 million for the 90 percent of the facility that is governmentally owned and used plus a nonqualified amount of $15 million).

Par. 5. Section 1.141–15 is revised to read as follows:

§ 1.141–15 Effective dates.

(a) *Scope.* The effective dates of this section apply for purposes of §§ 1.141–1 through 1.141–6(a), 1.141–9 through 1.141–14, 1.145–1 through 1.145–2, 1.150–1(a)(3) and the definition of bond documents contained in § 1.150–1(b).

(b) *Effective dates.* Except as otherwise provided in this section, §§ 1.141–1 through 1.141–6(a), 1.141–9 through 1.141–14, 1.145–1 through 1.145–2, 1.150–1(a)(3) and the definition of bond documents contained in § 1.150–1(b) apply to bonds issued on or after May 16, 1997, that are subject to section 1301 of the Tax Reform Act of 1986 (100 Stat. 2602).

(c) *Refunding bonds.* Sections 1.141–1 through 1.141–6(a), 1.141–9 through 1.141–14, 1.145–1 through 1.145–2, 1.150–1(a)(3) and the definition of bond documents contained in § 1.150–1(b) do not apply to any bonds issued on or after May 16, 1997, to refund a bond to which those sections do not apply unless—

(1) The weighted average maturity of the refunding bonds is longer than—

(i) The weighted average maturity of the refunded bonds; or

(ii) In the case of a short-term obligation that the issuer reasonably expects to refund with a long-term financing (such as a bond anticipation note), 120 percent of the weighted average reasonably expected economic life of the facilities financed; or

(2) A principal purpose for the issuance of the refunding bonds is to make one or more new conduit loans.

(d) *Permissive application of regulations.* Except as provided in paragraph (e) of this section, §§ 1.141–1 through 1.141–6(a), 1.141–9 through 1.141–14, 1.145–1 through 1.145–2, 1.150–1(a)(3) and the definition of bond documents contained in § 1.150–1(b) may be applied in whole, but not in part, to actions taken before February 23, 1998 with respect to—

(1) Bonds that are outstanding on May 16, 1997, and subject to section 141; or

(2) Refunding bonds issued on or after May 16, 1997.

(e) *Permissive retroactive application of certain sections.* The following sections may each be applied to any bonds issued before May 16, 1997—

(1) Section 1.141–3(b)(4);

(2) Section 1.141–3(b)(6); and

(3) Section 1.141–12.

Par. 6. Section 1.141–15T is added to read as follows:

§ 1.141–15T Effective dates (temporary).

(a) through (e) [Reserved]. For guidance see § 1.141–15.

(f) *Effective dates for certain regulations relating to output facilities*—(1) *General rule.* Except as otherwise provided in this section, §§ 1.141–7T and 1.141–8T apply to bonds issued on or after February 23, 1998 that are subject to section 1301 of the Tax Reform Act of 1986 (100 Stat. 2602).

(2) *Transition rule for requirements contracts.* Section 1.141–7T(c)(4) applies to output contracts entered into on or after February 23, 1998. An output contract is treated as entered into on or after that date if its term is extended, the parties to the contract change, or other material terms are amended on or after that date.

(g) *Refunding bonds in general.* Except as otherwise provided in paragraph (h) or (i) of this section, §§ 1.141–7T and 1.141–8T do not apply to bonds issued on or after February 23, 1998, to refund a bond to which the §§ 1.141–7T and 1.141–8T do not apply unless—

(1) The weighted average maturity of the refunding bonds is longer than—

(i) The weighted average maturity of the refunded bonds; or

(ii) In the case of a short-term financings (such as a bond anticipation note), 120 percent of the weighted average reasonably expected economic life of the facilities financed; or

(2) A principal purpose of the issuance of the refunding bonds is to make one or more new conduit loans.

(h) *Permissive retroactive application.* Except as provided in § 1.141–15 (d) or (e) or paragraph (i) of this section, §1.141–1 through 1.141–6, 1.141–7T through 1.141–8T, 1.141–9 through 1.141–14, 1.145–1 through 1.145–2, 1.150–1(a)(3) and the definition of bond documents contained in § 1.150–1(b) may be applied in whole, but not in part to—

(1) Bonds that are outstanding on May 16, 1997, and subject to section 141; or

(2) Refunding bonds issued on or after May 16, 1997.

(i) *Permissive retroactive application of certain regulations pertaining to output contracts.* Section 1.141–7T(f) (4) and (5) may be applied to any bonds issued before February 23, 1998.

Par. 7. Section 1.142(f)(4)–1T is added to read as follows:

§ 1.142(f)(4)–1T Manner of making election to terminate tax-exempt bond financing (temporary).

(a) *Overview.* Section 142(f)(4) permits a person engaged in the local furnishing of electric energy or gas (a local furnisher) that uses facilities financed with exempt facility bonds under section 142(a)(8) and that expands its service area in a manner inconsistent with the requirements of sections 142(a)(8) and 142(f) to make an election to ensure that those bonds will continue to be treated as exempt facility bonds. The election must meet the requirements of paragraphs (b) and (c) of this section.

(b) *Time for making election*—(1) *In general.* An election under section 142(f)(4)(B) must be filed with the Internal Revenue Service on or before 90 days after the later of—

(i) The date of the service area expansion that causes bonds to cease to meet the requirements of sections 142(a)(8) and 142(f); or

(ii) February 23, 1998.

(2) *Date of service area expansion.* For the purposes of this section, the date of the service area expansion is the first date on which the local furnisher is authorized to collect revenue for the provision of service in the expanded area.

(c) *Manner of making election.* An election under section 142(f)(4)(B) must be captioned ''ELECTION TO TERMINATE TAX-EXEMPT BOND FINANCING'', must be signed under penalties of perjury by a person who has authority to sign on behalf of the local furnisher, and must contain the following information—

(1) The name of the local furnisher;

(2) The tax identification number of the local furnisher;

(3) The complete address of the local furnisher;

(4) The date of the service area expansion;

(5) Identification of each bond issue subject to the election, including the complete name of each issue, the tax identification number of each issuer, the issue date of each issue, the issue price of each issue, the adjusted issue price of each issue as of the date of the election, the earliest date on which the bonds of each issue may be redeemed, and the principal amount of bonds of each issue to be redeemed on the earliest redemption date;

(6) A statement that the local furnisher making the election agrees to the conditions stated in section 142(f)(4)(B); and

(7) A statement that each issuer of the bonds subject to the election has received written notice of the election.

(d) *Effect on section 150(b).* Except as provided in paragraph (e) of this section, if a local furnisher files an election within the period specified in paragraph (b) of this section, section 150(b) does not apply to bonds identified in the election during and after that period.

(e) *Effect of failure to meet agreements.* If a local furnisher fails to meet any of the conditions stated in an election pursuant to paragraph (c)(6) of this section, the election is invalid.

(f) *Corresponding provisions of the Internal Revenue Code of 1954.* Section 103(b)(4)(E) of the Internal Revenue Code of 1954 set forth corresponding requirements for the exclusion from gross income of the interest on bonds issued for facilities for the local furnishing of electric energy or gas. For the purposes of this section any reference to sections 142(a)(8) and (f) of the Internal Revenue Code of 1986 includes a reference to the corresponding portion of section 103(b)(4)(E) of the Internal Revenue Code of 1954.

(g) *Effective dates.* Section 1.142(f)(4)–1 applies to elections made on or after February 23, 1998.

Par. 8. Section 1.150–5T is added to read as follows:

§ 1.150–5T Filing notices and elections (temporary).

(a) *In general.* Notices and elections under the following sections must be filed with the Chief, Employee Plans and Exempt Organizations) of the appropriate key district office—

(1) Section 1.141–12(d)(3); and

(2) Section 1.142(f)(4)–1T.

(b) *Effective dates.* This section applies to notices and elections filed on or after February 23, 1998.

Michael P. Dolan,

Deputy Commissioner of Internal Revenue.

Approved: December 23, 1997.

Jonathan Talisman,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 98–716 Filed 1–21–98; 8:45 am]

BILLING CODE 4830–01–U

Proposed Rules

Federal Register
Vol. 63, No. 14
Thursday, January 22, 1998

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.

NORTHEAST DAIRY COMPACT COMMISSION

7 CFR Part 1301

Notice of Meeting

AGENCY: Northeast Dairy Compact Commission.

ACTION: Notice of meeting.

SUMMARY: The Compact Commission will hold its monthly meeting to consider whether to adopt as a Final Rule the Proposed Rule to exempt from the compact over-order price regulation fluid milk utilized for child nutrition programs and distributed by handlers during the 1998–1999 contract year. The Commission will also deliberate and make a final ruling on a handler petition for exemption from the price regulation. Certain matters relating to administration will also be considered and acted upon. This is a rescheduling of a previously noticed meeting (63 FR 1396, Jan. 9, 1998) for January 16, 1998, cancelled due to a winter storm in the Northeast.

DATES: The meeting is scheduled for January 26, 1998 commencing at 10:00 a.m. to adjournment.

ADDRESSES: The meeting will be held at the Holiday Inn, Capitol Room, 172 North Main Street, Concord, NH (exit 14 off Interstate 93).

FOR FURTHER INFORMATION CONTACT: Daniel Smith, Executive Director, Northeast Dairy Compact Commission, 43 State Street, PO Box 1058, Montpelier, VT 05601. Telephone (802) 229–1941.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Northeast Dairy Compact Commission will hold its regularly scheduled monthly meeting. The Compact Commission will deliberate and act upon whether to adopt as a Final Rule the Proposed Rule to exempt from the regulation fluid milk distributed by handlers during the 1998–1999 contract year under competitive bid contracts with School Food Authorities in New England for Child Nutrition Programs qualified for reimbursement under the National School Lunch Act of 1946 and the Child Nutrition Act. See 62 F.R. 65226. The Commission will also deliberate and make a final ruling on Horizon Organic Dairy's petition for exemption from the price regulation. Docket # HEP–97–009. Certain matters relating to administration, including final approval of the contract with participating universities to conduct the market impact study required by the price regulation, will also be considered and acted upon.

(Authority: (a) Article V, Section 11 of the Northeast Interstate Dairy Compact, and all other applicable Articles and Sections, as approved by Section 147, of the Federal Agriculture Improvement and Reform Act (FAIR ACT), Pub. L. 104–127, and as thereby set forth in S.J. Res. 28(1)(b) of the 104th Congress; Finding of Compelling Public Interest by United States Department of Agriculture Secretary Dan Glickman, August 8, 1996 and March 20, 1997. (b) Bylaws of the Northeast Dairy Compact Commission, adopted November 21, 1996.)

Daniel Smith,

Executive Director.

[FR Doc. 98–1601 Filed 1–21–98; 8:45 am]

BILLING CODE 1650–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–14–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–10–10, –30, and –40 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 McDonnell Douglas Model DC–10–10, –30, and –40 series airplanes. This proposal would require replacement of certain taper-lok attachments and forward trunnion bolts with new components that attach the left and right main landing gear (MLG) to each wing. This proposal is prompted by a report indicating that, due to overstrength of the forward trunnion bolt, an MLG broke away and ruptured a wing fuel tank while an airplane was being operated off the runway. The actions specified by the proposed AD are intended to ensure that the MLG separates from the wing when it is subjected to unpredictable overloads during abnormal operations, and to prevent consequent primary structural damage to the airplane.

DATES: Comments must be received by March 9, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 97–NM–14–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 McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Department C1–L51 (2–60). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: Ronald Atmur, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (562) 627–5224; fax (562) 627–5210.

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–14–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–114, Attention: Rules Docket No. 97–NM–14–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received a report indicating that, while a McDonnell Douglas Model DC–10–10 series airplane was being operated off the runway, a main landing gear (MLG) broke away and ruptured the wing fuel tank. The results of analysis and testing conducted by the manufacturer revealed that certain fasteners (e.g., the forward trunnion bolt and the bolts for the attach fitting), which attach the MLG to the rear spar of the wing, are overstrength. Consequently, the MLG may not separate from the airplane, as designed, when unpredictable overloads are placed on the MLG during abnormal operations. This condition, if not corrected, could result in primary structural damage to the airplane.

Explanation of Relevant Service Information

The FAA has reviewed and approved McDonnell Douglas DC–10 Service Bulletin 57–78, Revision 1, dated August 26, 1986 (for Model DC–10–10 series airplanes), which describes procedures for replacing 24 TL taper-lok attachments that attach the left and right MLG attach fitting assemblies on each wing with heat-treat TLH taper-lok attachments. This service bulletin also describes procedures for replacing the forward trunnion bolts on the left and right MLG of each wing with ''zero margin'' trunnion bolts.

The FAA also has reviewed and approved McDonnell Douglas DC–10 Service Bulletin 57–79, Revision 1, dated September 21, 1979, as revised by McDonnell Douglas DC–10 Service Bulletin 57–79, Service Bulletin Change Notification, dated January 23, 1980 (for Model DC–10–10 series airplanes). This service bulletin describes procedures for replacing the 1½-inch-diameter bolts that attach the left and right MLG attach fitting and rear spar of each wing with 1¼-inch-diameter bolts and bushings, and installing bolt retainers.

In addition, the FAA has reviewed and approved McDonnell Douglas DC–10 Service Bulletin 57–82, dated February 19, 1980 (for Model DC–10–30 and –40 series airplanes). This service bulletin describes procedures for replacing the forward trunnion bolts of the left and right MLG of each wing with ''zero margin'' trunnion bolts. For certain groups of airplanes, the service bulletin also describes procedures for replacing the 1½-inch-diameter bolts that attach the left and right MLG attach fitting and rear spar of each wing with 1¼-inch-diameter bolts and bushings, and installing bolt retainers.

Accomplishment of the replacement of all of these fasteners will allow the MLG to separate from the wing. This separation is intended to minimize the possibility of primary structural damage to the airplane when the MLG is subjected to unpredictable overloads during abnormal operations.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type of design, the proposed AD would require accomplishment of the actions specified in the service bulletins described previously in accordance with the procedures specified in those service bulletins.

Cost Impact

For McDonnell Douglas Model DC–10–10 Series Airplanes

There are approximately 119 Model DC–10–10 series airplanes of the affected design in the worldwide fleet, and 108 airplanes of U.S. registry that would be affected by the proposed requirements for replacement of taper-lok attachments and forward trunnion bolts. The FAA estimates that it would take approximately 462 work hours per airplane to accomplish these proposed actions, and that the average labor rate is $60 per work hour. Required parts would cost approximately $47,000 per airplane. Based on these figures, the cost impact of these proposed actions on U.S. operators is estimated to be $8,069,760, or $74,720 per airplane.

There are approximately 111 Model DC–10–10 series airplanes of the affected design in the worldwide fleet, and 82 airplanes of U.S. registry that would be affected by the proposed requirements for replacement of larger attach bolts and installation of bolt retainers. The FAA estimates that it would take approximately 500 work hours per airplane to accomplish these proposed actions, and that the average labor rate is $60 per work hour. Required parts would cost approximately $11,734 per airplane. Based on these figures, the cost impact of these proposed actions on U.S. operators is estimated to be $3,422,188, or $41,734 per airplane.

For McDonnell Douglas Model DC–10–30 and DC–10–40 Series Airplanes

There are approximately 168 Model DC–10–30 and DC–10–40 series airplanes of the affected design in the worldwide fleet, and 82 airplanes of U.S. registry that are identified as Groups I and II airplanes in the relevant service bulletins and that would be affected by the proposed requirements for replacement of larger attach bolts, installation of bolt retainers, and replacement of forward trunnion bolts. The FAA estimates that it would take approximately 576 work hours per airplane to accomplish these proposed actions, and that the average labor rate is $60 per work hour. Required parts would cost approximately $20,000 per airplane. Based on these figures, the cost impact of these proposed actions on U.S. operators is estimated to be $4,473,920, or $54,560 per airplane.

There are approximately 20 Model DC–10–30 and DC–10–40 series airplanes of the affected design in the worldwide fleet, and 6 airplanes of U.S. registry that are identified as Group III airplanes in the relevant service bulletins and that would be affected by the proposed requirements for replacement of forward trunnion bolts. The FAA estimates that it would take approximately 76 work hours per airplane to accomplish this proposed action, and that the average labor rate is $60 per work hour. Required parts would cost approximately $15,800 per airplane. Based on these figures, the cost impact of this proposed action on U.S. operators is estimated to be $122,160, or $20,360 per airplane.

The cost impact figures discussed above are based on assumptions that no

operator has yet accomplished the proposed action, and that no operator would accomplish that action in the future if this AD were not adopted.

However, the FAA has been advised that the following actions have been accomplished on Model DC–10–10 series airplanes in accordance with the requirements of this proposed AD:

• Taper-lok attachments and forward trunnion bolts have been replaced on 77 U.S.-registered airplanes. Therefore, the future economic cost impact of those proposed actions on U.S. operators is now only $2,316,320.

• Larger attach bolts have been replaced and bolt retainers have been installed on 77 U.S.-registered airplanes. Therefore, the future economic cost impact of those proposed actions on U.S. operators is now only $208,670.

• The FAA also has been advised that the following actions have been accomplished on Model DC–10–30 and DC–10–40 series airplanes in accordance with the requirements of this proposed AD:

• Forward trunnion bolts and larger attach bolts have been replaced and bolt retainers have been installed on 40 U.S.-registered airplanes identified as Groups I and II airplanes in the relevant service bulletins. Therefore, the future economic cost impact of those proposed actions on U.S. operators is now only $2,291,520.

• Forward trunnion bolts have been replaced on 3 U.S.-registered airplanes identified as Group III airplanes in the relevant service bulletins. Therefore, the future economic cost impact of this proposed action on U.S. operators is now only $61,080.

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:

McDonnell Douglas: Docket 97–NM–14–AD.

Applicability: Model DC–10–10, DC–10–30, and DC–10–40 series airplanes; certificated in any category; as listed in the following McDonnell Douglas service bulletins:

• McDonnell Douglas DC–10 Service Bulletin 57–78, Revision 1, dated August 26, 1986;

• McDonnell Douglas DC–10 Service Bulletin 57–79, Revision 1, dated September 21, 1979, as revised by McDonnell Douglas DC–10 Service Bulletin Change Notification 57–79, dated January 23, 1980; and

• McDonnell Douglas DC–10 Service Bulletin 57–82, dated February 19, 1980.

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 (e) 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 ensure that the main landing gear (MLG) separates from the wing when it is subjected to unpredictable overloads during abnormal operations, and to prevent consequent primary structural damage to the airplane, accomplish the following:

(a) For Model DC–10–10 series airplanes, as listed in McDonnell Douglas DC–10 Service Bulletin 57–78, Revision 1, dated August 26, 1986: Within 5 years after the effective date of this AD, accomplish the requirements of paragraphs (a)(1) and (a)(2) of this AD, in accordance with the service bulletin.

(1) Replace 24 TL taper-lok attachments that attach the left and right MLG attach fitting assemblies on each wing with heat-treat TLH taper-lok attachments in accordance with the service bulletin. And

(2) Replace each forward trunnion bolt on the left and right MLG of each wing with a ''zero margin'' trunnion bolt in accordance with the service bulletin.

Note 2: Replacement of taper-lok attachments and forward trunnion bolts accomplished prior to the effective date of this AD in accordance with McDonnell Douglas DC–10 Service Bulletin 57–78, dated February 19, 1980, is considered acceptable for compliance with the requirements of paragraphs (a)(1) and (a)(2) of this AD.

(b) For Model DC–10–10 series airplanes, as listed in McDonnell Douglas DC–10 Service Bulletin 57–79, Revision 1, dated September 21, 1979, as revised by McDonnell Douglas DC–10 Service Bulletin Change Notification 57–79, dated January 23, 1980: Within 5 years after the effective date of this AD, replace each 1½-inch-diameter bolt and bushing that attach the left and right MLG attach fitting and rear spar of each wing with a 1¼-inch-diameter bolt, and install bolt retainers, in accordance with the service bulletin and service bulletin change notification.

Note 3: Replacement of 1½-inch-diameter bolts and installation of bolt retainers prior to the effective date of this AD in accordance with McDonnell Douglas DC–10 Service Bulletin 57–79, dated June 5, 1979, are considered acceptable for compliance with the requirements of paragraph (b) of this AD.

(c) For Model DC–10–30 and DC–10–40 series airplanes: Except as provided by paragraph (d) of this AD, within 5 years after the effective date of this AD, accomplish the requirements of paragraph (c)(1) or (c)(2) of this AD, as applicable, in accordance with McDonnell Douglas DC–10 Service Bulletin 57–82, dated February 19, 1980.

(1) For airplanes identified as Groups I and II in the service bulletin: Replace each forward trunnion bolt on the left and right MLG of each wing with a ''zero margin'' forward trunnion bolt; replace each 1½-inch-diameter bolt and bushing that attach the left and right MLG attach fitting and rear spar of each wing with a 1¼-inch-diameter bolt, and install bolt retainers, in accordance with the service bulletin.

(2) For airplanes identified as Group III in the service bulletin: Replace each forward trunnion bolt on the left and right MLG of each wing with a ''zero margin'' trunnion bolt in accordance with the service bulletin.

(d) For Model DC–10–30 and DC–10–40 airplanes: Installation of a trunnion bolt having part number (P/N) ARG7558–501 or P/N ARG7558–507 on the MLG, in accordance with AD 96–03–05, amendment 39–9502, constitutes terminating action for the requirement to replace the trunnion bolts for that landing gear, as required in paragraph (c)(1) or (c)(2) of this AD.

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

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

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

Issued in Renton, Washington, on January 14, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–1427 Filed 1–21–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–108–AD]

RIN 2120–AA64

Airworthiness Directives; Dornier Model 328–100 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 Dornier Model 328–100 series airplanes. This proposal would require a one-time inspection for discrepancies of certain engine control cables, and replacement of the cables with new or serviceable control cables, if necessary. It also would require modification of the cable fairleads on the nose rib firewall. Additionally, this proposal would require modification of the mounting brackets of the control cable pulleys in the pulley box. 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 chafing of engine control cables, which could cause the cables to break and result in loss of engine control and consequent reduced controllability of the airplane.

DATES: Comments must be received by February 23, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 97–NM–108–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 Fairchild Dornier, Dornier Luftfahrt GmbH, P.O. Box 1103, D–82230 Wessling, Germany. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4556, 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–108–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–114, Attention: Rules Docket No. 97–NM–108–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for Germany, notified the FAA that an unsafe condition may exist on certain Dornier Model 328–100 series airplanes. The LBA advises that it received a report indicating that, during routine inspection, engine control cables were found to be chafed in the area of the cable fairleads on the nose rib firewall, and in the area of the cable fairleads in the fuselage. Such chafing, if not corrected, could cause the cables to break and result in loss of engine control and consequent reduced controllability of the airplane.

Explanation of Relevant Service Information

Dornier has issued Service Bulletin SB–328–76–152, dated May 6, 1996, which describes procedures for a one-time inspection for chafing or discrepancies of the engine control cables in the area of the cable fairleads on the nose rib firewall, and replacement of the cables with new or serviceable cables, if necessary. Additionally, that service bulletin describes procedures for modification of these cable fairleads, which entails removing the fairleads, enlarging the bolt holes, and reworking the firewall.

In addition, Dornier also has issued Service Bulletin SB–328–76–168, dated May 6, 1996, which describes procedures for a one-time inspection for chafing or discrepancies of the engine control cables in the area of the cable fairleads in the fuselage, and replacement of the cables with new or serviceable cables, if necessary. Additionally, that service bulletin describes procedures for modification of the mounting brackets of the control cable pulleys in the pulley box, in order to improve alignment of the control cables in the area of the cable fairleads in the fuselage.

Accomplishment of the actions specified in the service bulletins is intended to adequately address the identified unsafe condition. The LBA classified these service bulletins as mandatory and issued German airworthiness directives 96–288 and 96–290, both dated October 10, 1996, in order to assure the continued airworthiness of these airplanes in Germany.

FAA's Conclusions

This airplane model is manufactured in Germany 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 LBA has kept the FAA informed of the situation described above. The FAA has examined the findings of the LBA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

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 bulletins described previously.

Cost Impact

The FAA estimates that 59 Dornier Model 328–100 series airplanes of U.S. registry would be affected by this proposed AD.

The actions specified in Service Bulletin SB–328–76–152 would be required to be accomplished on 56 Dornier Model 328–100 series airplanes of U.S. registry. It would take approximately 4 work hours per airplane to accomplish that action, at an average labor rate of $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 this action on the 56 affected U.S.-registered airplanes is estimated to be $13,440, or $240 per airplane.

The actions specified in Service Bulletin SB–328–76–168 would be required to be accomplished on 29 Dornier Model 328–100 series airplanes of U.S. registry. It would take approximately 12 work hours per airplane to accomplish that action, at an average labor rate of $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 this action on the 29 affected U.S.-registered airplanes is estimated to be $20,880, or $720 per airplane.

The cost impact figures discussed above are 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:

Dornier: Docket 97–NM–108–AD.

Applicability: Model 328–100 series airplanes; as listed in Dornier Service Bulletins SB–328–76–152 and SB–328–76–168, both dated May 6, 1996; 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, unless accomplished previously.

To prevent chafing of engine control cables, which could cause the control cables to break and result in loss of engine control and consequent reduced controllability of the airplane, accomplish the following:

(a) Within 90 days after the effective date of this AD, perform a one-time inspection to detect chafing or discrepancies of the engine control cables in the areas of the cable fairleads on the nose rib firewall, and the cable fairleads in the fuselage; in accordance with Dornier Service Bulletins SB–328–76–152 and SB–328–76–168, both dated May 6, 1996; respectively. If any discrepancy or chafing is found, prior to further flight, replace the damaged cables with new or serviceable cables in accordance with the applicable service bulletin.

(b) For airplanes listed in Dornier Service Bulletin SB–328–76–152, dated May 6, 1996: Prior to further flight following the inspection required in paragraph (a) of this AD, modify the cable fairleads on the nose rib firewall in accordance with the service bulletin.

(c) For airplanes listed in Dornier Service Bulletin SB–328–76–168, dated May 6, 1996: Prior to further flight following the inspection required in paragraph (a) of this AD, modify the mounting brackets of the control cable pulleys in the pulley box in accordance with the service bulletin.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, 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.

(e) 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 German airworthiness directives 96–288 and 96–290, both dated October 10, 1996.

Issued in Renton, Washington, on January 14, 1998.

Gilbert L. Thompson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–1426 Filed 1–21–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–306–AD]

RIN 2120–AA64

Airworthiness Directives; Saab Model SAAB 2000 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 Saab Model SAAB 2000 series airplanes. This proposal would require replacement of the main landing gear (MLG) trunnion fittings with reinforced trunnion fittings. This proposal is prompted by the issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent collapse of the MLG due to fatigue cracking of the MLG trunnion fittings.

DATES: Comments must be received by February 23, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 97–NM–306–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 SAAB Aircraft AB, SAAB Aircraft Product Support, S–581.88, Linköping, Sweden. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, 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–306–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–114, Attention: Rules Docket No. 97-NM–306-AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Luftfartsverket (LFV), which is the airworthiness authority for Sweden, notified the FAA that an unsafe condition may exist on certain Saab Model SAAB 2000 series airplanes. The LFV advises that, during fatigue testing, fatigue cracks developed in the main landing gear (MLG) trunnion fitting. This fatigue cracking, if not detected and corrected in a timely manner, could result in the collapse of the MLG.

Explanation of Relevant Service Information

Saab has issued Service Bulletin 2000–57–010, dated February 25, 1997, which describes procedures for replacement of the MLG trunnion fittings with reinforced fittings. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition. The LFV classified this service bulletin as mandatory and issued Swedish airworthiness directive SAD No. 1–108, dated February 27, 1997, in order to assure the continued airworthiness of these airplanes in Sweden.

FAA's Conclusions

This airplane model is manufactured in Sweden 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 LFV has kept the FAA informed of the situation described above. The FAA has examined the findings of the LFV, 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 3 Saab Model SAAB 2000 series airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 80 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 the operator. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $14,400 or $4,800 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:

SAAB aircraft AB: Docket 97–NM–306–AD.

Applicability: Model SAAB 2000 series airplanes having serial numbers -003 through -040 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 (c) 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 collapse of the main landing gear (MLG) due to fatigue cracking of the MLG trunnion fittings, accomplish the following:

(a) Prior to the accumulation of 12,000 total flight cycles, or within 100 flight cycles after the effective date of this AD, whichever occurs later, replace the MLG trunnion fittings with reinforced trunnion fittings in accordance with Saab Service Bulletin 2000–57–010, dated February 25, 1997.

(b) As of the effective date of this AD, no person shall install any MLG trunnion fitting having part number 7357451–503 or –504 on any airplane.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, 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.

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

Note 3: The subject of this AD is addressed in Swedish airworthiness directive SAD No. 1–108, dated February 27, 1997.

Issued in Renton, Washington, on January 14, 1998.

Gilbert L. Thompson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–1425 Filed 1–21–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–SW–07–AD]

Airworthiness Directives; Eurocopter France Model SA 330F, G, and J Helicopters

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 Eurocopter France Model SA 330F, G, and J helicopters. This proposal would require visually inspecting the intermediate gearbox (IGB) fairing safety stop (safety stop) for cracks, crazing, or edge wear, and if cracks, crazing, or edge wear exceeds the established limits, replacing the safety stop; and, inspecting to ensure that the inclined drive shaft fairing hinge pin is properly locked. A terminating action is provided in the AD by installing an additional safety stop on the IGB fairing. This proposal is prompted by one report of an accident involving the loss of the inclined drive shaft fairing. The actions specified by the proposed AD are intended to prevent loss of the inclined drive shaft fairing and impact with the tail rotor, and subsequent loss of control of the helicopter.

DATES: Comments must be received by March 23, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 97–SW–07–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. 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 American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005. This information may be examined at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Mathias, Aerospace Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5123, fax (817) 222–5961.

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 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 No. 97–SW–07–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, Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 97–SW–07–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

Discussion

The Direction Generale De L'Aviation Civile (DGAC) which is the airworthiness authority for France, recently notified the FAA that an unsafe condition may exist on Eurocopter France SA 330F, G, and J helicopters. The DGAC advises that there was one reported accident that was caused by the loss of the inclined drive shaft fairing.

Eurocopter France has issued Eurocopter France SA 330 Service Bulletin No. 54.20, Revision 1, dated February 27, 1996, which specifies visually inspecting the safety stop for wear, cracks or crazing, and determining if the edge has ruptured locally, and replacing the safety stop. The DGAC classified this service bulletin as mandatory and issued DGAC AD 96–095–076(B), dated April 24, 1996, in order to assure the continued airworthiness of these helicopters in France.

This helicopter 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, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other Eurocopter France Model SA 330F, G, and J helicopters of the same type design registered in the United States, the proposed AD would require visually inspecting the safety stop for cracks, crazing, or edge wear that exceeds the limits stated in Note II of the Accomplishment Instructions of Eurocopter France SA 330 Service Bulletin No. 54.20, Revision 1, dated February 27, 1996, and if cracks, crazing, or edge wear exceeds the established limits, replacing the safety stop; and, inspecting to ensure that the inclined drive shaft fairing hinge pin is properly locked. Both inspections are required within 7 calendar days after the effective date of the AD, and upon completion of the last flight of each day. Installing an additional safety stop (right-angle clip) on the IGB fairing within 60 calendar days after the effective date of the AD is terminating action for the requirements of this AD. The actions would be required to be accomplished in accordance with the service bulletin described previously.

The FAA estimates that 1 helicopter of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour to perform the inspection, and two work hours to install the safety stop, and that the average labor rate is $60 per work hour. Required parts would cost approximately $50 per helicopter. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $230.

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 a new airworthiness directive to read as follows:

Eurocopter France: Docket No. 97–SW–07–AD.

Applicability: Model SA 330 F, G, and J helicopters, certificated in any category.

Note 1: This AD applies to each helicopter 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 helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (d) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any helicopter from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent loss of the inclined drive shaft fairing hinge pin (hinge pin), that could result in loss of the inclined drive shaft fairing, impact with the tail rotor, and subsequent loss of control of the helicopter, accomplish the following:

(a) Within 7 calendar days after the effective date of this AD, and thereafter, upon the completion of the last flight of each day, visually inspect the intermediate gearbox (IGB) fairing safety stop (safety stop) and the hinge pin in accordance with the Accomplishment Instructions of Eurocopter France SA 330 Service Bulletin No. 54.20, Revision 1, dated February 27, 1996.

(1) Inspect the IGB fairing safety stop, part number (P/N) 330A24–2086–20, for cracks or crazing, and edge wear that exceeds the limits stated in Note II of the Accomplishment Instructions of Eurocopter France SA 330 Service Bulletin No. 54.20, Revision 1, dated February 27, 1996, and if cracks, crazing, or edge wear that exceeds the established limits is detected, remove the safety stop and replace it with an airworthy safety stop; and,

(2) Inspect the hinge pin to ensure it is properly locked.

(b) Within 60 calendar days after the effective date of this AD, install an additional safety stop, P/N 330A24–2119–21, to prevent the hinge pin from backing out of its hole in

case of a locking arm failure, in accordance with Accomplishment Instructions of Eurocopter France SA 330 Service Bulletin No. 54.20, Revision 1, dated February 27, 1996.

(c) Installation of an airworthy additional safety stop, P/N 330A24–2119–21, constitutes terminating action for the requirements of this AD.

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

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Rotorcraft Standards Staff.

(e) 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 helicopter to a location where the requirements of this AD can be accomplished.

Note 3: The subject of this AD is addressed in Direction Generale De L'Aviation Civile (France) AD 96–095–076(B), dated April 24, 1996.

Issued in Fort Worth, Texas, on January 14, 1998.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 98–1428 Filed 1–21–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–ANE–46–AD]

RIN 2120–AA64

Airworthiness Directives; CFM International CFM56–2, –2A, –2B, –3, –3B, and –3C Series Turbofan Engines

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 CFM International (CFMI) CFM56–2, –2A, –2B, –3, –3B, and –3C series turbofan engines. This proposal would require a one-time eddy current inspection (ECI) for cracks or gouges in certain high pressure turbine rotor (HPTR) disks. This proposal is prompted by a report of a HPTR disk found to have a crack in a rim bolt hole during a routine shop manual ECI. The actions specified by the proposed AD are intended to prevent the potential for an uncontained failure of the HPTR disk, which could result in an inflight engine shutdown, aborted takeoff, or damage to the aircraft.

DATES: Comments must be received by March 23, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 97–ANE–46–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may be inspected at this location between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from CFM International, Technical Publications Department, 1 Neumann Way, Cincinnati, OH 45215; telephone (513) 552–2981, fax (513) 552–2816. This information may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: Glorianne Messemer, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7132; fax (781) 238–7199.

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 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–ANE–46–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, New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 97–ANE–46–AD, 12 New England Executive Park, Burlington, MA 01803–5299.

Discussion

This proposed airworthiness directive (AD) is applicable to CFM International (CFMI) CFM56–2, –2A, –2B, –3, –3B, and –3C series turbofan engines. The Federal Aviation Administration (FAA) received a report of a high pressure turbine rotor (HPTR) disk found to have a crack in a rim bolt hole during a routine shop manual eddy current inspection (ECI). Investigation revealed that the crack initiated from a gouge in the bolt hole. The gouge is the result of a drill break that occurred when the rim bolt hole was being manufactured. A review of manufacturing records indicates that a total of 276 HPTR disks have documented drill breaks that occurred during manufacture of the HPTR disk. This condition, if not corrected, could result in an uncontained failure of the HPTR disk, which could result in an inflight engine shutdown, aborted takeoff, or damage to the aircraft.

The FAA has reviewed and approved the technical contents of CFM56–2 Service Bulletin (SB) No. 72–817, dated January 14, 1997, CFM56–2A SB No. 72–419, Revision 1, dated January 31, 1997, CFM56–2B SB No. 72–561, Revision 1, dated January 31, 1997, and CFM56–3/–3B/–3C SB No. 72–843, dated January 14, 1997, that describe procedures for ECI for cracks or gouges in HPTR disks.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require a one-time ECI for cracks or gouges in certain HPTR disks. The calendar end-dates listed in the compliance section of this AD were based upon risk analysis. The actions would be required to be accomplished in accordance with the SBs described previously.

There are approximately 276 engines of the affected design in the worldwide

fleet. The FAA estimates that 100 engines on aircraft of U.S. registry would be affected by the proposed AD, that it would take approximately 300 work hours per engine to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Replacement parts, if required, would cost approximately $86,000 per engine. Based on these figures, and assuming that 16 of the inspected HPTR disks will require replacement, the total cost impact of the proposed AD on U.S. operators is estimated to be $3,176,000. The manufacturer has advised the FAA that certain costs incurred from the inspection and replacement of parts affected by this AD may be borne by the manufacturer, therefore, the total cost impact of this AD to U.S. operators may be less than estimated by the FAA.

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), 40101, 40113, 44701.

§ 39.13 [Amended]

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

CFM International: Docket No. 97–ANE–46–AD.

Applicability: CFM International (CFMI) CFM56–2, –2A, –2B, –3, –3B, and –3C series turbofan engines installed on, but not limited to McDonnell Douglas DC–8 series, Boeing 737 series, as well as Boeing E–3, E–6, and KC–135 (military) series aircraft.

Note 1: This airworthiness directive (AD) applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) 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 potential for an uncontained failure of the high pressure turbine rotor (HPTR) disk, which could result in an inflight engine shutdown, aborted takeoff, or damage to the aircraft, accomplish the following:

(a) Eddy current inspect for cracks or gouges in HPTR disks, Part Numbers 1475M29P01, 1475M29P02, 9514M69P01, 9514M69P04, 9514M69P05, 9514M69P06, and 9514M69P09, with Serial Numbers listed in Table 1 of the applicable Service Bulletin (SB), as follows:

(1) For CFM56–2 engines, in accordance with CFM56–2 SB No. 72–817, dated January 14, 1997, prior to June 30, 1998.

(2) For CFM56–2A engines, in accordance with CFM56–2A SB No. 72–419, Revision 1, dated January 31, 1997, within 500 cycles in service (CIS) after the effective date of this AD, or by December 31, 1999, whichever occurs first.

(3) For CFM56–2B engines, in accordance with CFM56–2B SB No. 72–561, Revision 1, dated January 31, 1997, within 500 CIS after the effective date of this AD, or by December 31, 1999, whichever occurs first.

(4) For CFM56–3, –3B, and –3C engines, in accordance with CFM56–3/–3B/–3C SB No. 72–843, dated January 14, 1997, prior to June 30, 1998.

(b) Remove from service HPTR disks found cracked or gouged, and replace with serviceable parts.

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

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Engine Certification Office.

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

Issued in Burlington, Massachusetts, on January 8, 1998.

James C. Jones,

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

[FR Doc. 98–1484 Filed 1–21–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–CE–119–AD]

RIN 2120–AA64

Airworthiness Directives; Pilatus Aircraft Ltd. Models PC–12 and PC–12/45 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 Pilatus Aircraft Ltd. (Pilatus) Models PC–12 and PC–12/45 airplanes. The proposed AD would require replacing certain propeller de-icing controllers with ones that are not susceptible to electromagnetic interference (EMI). The proposed AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Switzerland. The actions specified by the proposed AD are intended to prevent improper operation of the propeller de-icing controller caused by EMI, which could result in ice build-up on the propeller with possible airplane controllability problems.

DATES: Comments must be received on or before February 27, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 97–CE–119–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 Pilatus Aircraft Ltd., Marketing Support Department, CH–6370 Stans, Switzerland; telephone: +41 41–6196 233; facsimile: +41 41–6103 351. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Roman T. Gabrys, Aerospace Engineer, Small Airplane Directorate, Airplane Certification Service, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone: (816) 426–6932; 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. 97–CE–119–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. 97–CE–119–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The Federal Office for Civil Aviation (FOCA), which is the airworthiness authority for Switzerland, notified the FAA that an unsafe condition may exist on certain Pilatus Models PC–12 and PC–12/45 airplanes. The FOCA of Switzerland reports that part number (P/N) 968.29.13.223 (BFG 4E3163–1) propeller de-icing controllers are susceptible to electromagnetic interference (EMI). This condition was identified during component qualification testing at the factory.

This condition, if not corrected in a timely manner, could result in improper operation of the de-icing controller, leading to ice-buildup on the propeller with possible airplane controllability problems.

Relevant Service Information

Pilatus has issued Service Bulletin No. 30–002, dated August 19, 1996, which specifies procedures for identifying an affected propeller de-icing controller, P/N 968.29.13.223 (BFG 4E3163–1); serial number U999 or lower that does not have ''SB30–1'' marked on it, and replacing this controller with one that is not susceptible to EMI.

The FOCA of Switzerland classified this service bulletin as mandatory and issued Swiss AD HB 96–416, dated September 30, 1996, in order to assure the continued airworthiness of these airplanes in Switzerland.

The FAA's Determination

This airplane model is manufactured in Switzerland 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 FOCA of Switzerland has kept the FAA informed of the situation described above.

The FAA has examined the findings of the FOCA of Switzerland; 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 Pilatus Models PC–12 and PC–12/45 airplanes of the same type design registered in the United States, the proposed AD would require replacing certain propeller de-icing controllers with ones that are not susceptible to EMI. Accomplishment of the proposed installation would be in accordance with the service information previously referenced.

Cost Impact

The FAA estimates that 53 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 2 workhours per airplane to accomplish the proposed replacement, and that the average labor rate is approximately $60 an hour. Parts will be provided by the manufacturer free of charge. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $6,360.

Compliance Time of the Proposed AD

While the condition described in this proposed AD is unsafe while the airplane is in operation, it is not a direct result of airplane operation. For example, the unsafe condition exists or could develop on an airplane with 500 hours time-in-service (TIS) the same as one with 10 hours TIS. For this reason, the FAA has determined that a compliance based on calendar time should be utilized in the proposed AD in order to assure that the unsafe condition is addressed on all airplanes in a reasonable time period.

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:

Pilatus Aircraft Ltd: Docket No. 97–CE–119–AD.

Applicability: Models PC–12 and PC–12/45 airplanes, serial numbers MSN 101 through MSN 153, 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 improper operation of the propeller de-icing controller caused by electromagnetic interference (EMI), which could result in ice build-up on the propeller with possible airplane controllability problems, accomplish the following:

(a) Within the next 9 calendar months after the effective date of this AD, accomplish the following in accordance with the instructions in Pilatus Service Bulletin No. 30–002, dated August 19, 1996:

(1) Identify the serial number of the affected propeller de-icing controller, part number (P/N) 968.29.13.223 (BFG 4E3163–1) (or FAA-approved equivalent part number);

(2) For those airplanes with a propeller de-icing controller, P/N 968.29.13.223 (BFG 4E3163–1) (or FAA-approved equivalent part number), with a serial number of U999 or lower that does not have ''SB30–1'' marked on it, replace it with a P/N 500.50.1.109 (BFG SB4E3163–1–30–1) (or FAA-approved equivalent part number) propeller de-icing controller.

Note 2: The airplanes affected by this AD could have propeller de-icing controllers installed that have Parts Manufacturer Approval (PMA). For those airplanes having PMA parts that are equivalent (PMA by equivalency) to those referenced in this AD, the phrase ''or FAA-approved equivalent part number'' means that this AD applies to airplanes with PMA by equivalency propeller de-icing controllers installed.

(b) As of the effective date of this AD, no person may install, on any affected airplane, a propeller de-icing controller, P/N 968.29.13.223 (BFG 4E3163–1) (or FAA-approved equivalent part number), with a serial number of U999 or lower that does not have ''SB30–1'' marked on it.

(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, 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 3: 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 Pilatus Service Bulletin No. 30–002 dated August 19, 1996, should be directed to Pilatus Aircraft Ltd., Marketing Support Department, CH–6370 Stans, Switzerland; telephone: +41 41–6196 233; facsimile: +41 41–6103 351. This service information may be examined at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Note 4: The subject of this AD is addressed in Swiss AD HB–96–416, dated September 30, 1996.

Issued in Kansas City, Missouri, on January 14, 1998.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–1463 Filed 1–21–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–CE–68–AD]

RIN 2120–AA64

Airworthiness Directives; Raytheon Aircraft Company Model 1900D Airplane (Formerly Known as Beech Aircraft Corporation Model 1900D Airplane)

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 Raytheon Aircraft Company (Raytheon) Models 1900D airplanes (formerly known as Beech Aircraft Corporation Models 1900D airplanes). The proposed action would require inspecting and repairing the radio switching panel relay printed circuit board (PCB) and the nose avionics wire harnesses, and replacing the existing A017 component PCB with a new A017 component PCB that has internal overcurrent protection fuses. Several reported incidents of lost pilot/co-pilot intercom ability, VHF communication ability, and public address system ability while in flight prompted the proposed action. The actions specified by the proposed AD are intended to prevent the loss of the pilot and co-pilot intercom, VHF communications, and passenger address system, which could result in loss of all communication during critical phases of flight.

DATES: Comments must be received on or before March 14, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 97–CE–68–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 Raytheon Aircraft Company, P. O. Box 85, Wichita, Kansas 67201–0085; telephone (800) 625–7043. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Harvey Nero, Aerospace Engineer, Wichita Aircraft Certification Office, Room 100, 1801 Airport Rd., Wichita,

Kansas 67209; telephone (316) 946–4137; facsimile (316) 946–4407.

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. 97–CE–68–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. 97–CE–68–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The FAA has received several incident reports in which an in-flight overcurrent condition occurred in the avionics/communications equipment resulting in a loss of certain Raytheon Model 1900D airplanes' pilot and co-pilot intercom, VHF communication, and passenger address systems. Investigation of these incidents found that one of the avionics wire harnesses had become chafed by rubbing against the PCB rack in the forward avionics bay. Investigators also found overcurrent conditions opening PCB traces in Collins CTL–22 communication control heads.

These events are occurring because the manufacturer made a change in the configuration design and installation of the avionics/communication equipment and the wire harnesses on the Model 1900D airplanes. The new configuration reduced the space between the equipment and made the proper installation of the wire harnesses a more critical issue. Also, the communication control heads are not internally protected by fuses to prevent a short circuit on any of the distribution circuits from affecting the entire communication system. This design makes it possible for an electrical short in the radio switching panel relay PCB's or in the avionics harnesses to create an overcurrent condition in the CTL–22 communication control heads.

This condition could cause the pilot and co-pilot circuit breaker to open, resulting in the pilot and co-pilot intercom system, VHF communications, and the passenger address system not operating, resulting in the loss of communication during critical phases of flight.

Relevant Service Information

Raytheon has issued service bulletin (SB) No. 2643, dated August, 1996, which specifies procedures for:

- inspecting the electrical connectors, the radio switching panel, and this panel's relay PCB's for moisture and corrosion;
- if moisture is found, cleaning and drying the components;
- if corrosion is found, either cleaning or replacing the component, depending on the severity;
- if moisture or corrosion is found, locating and eliminating the source;
- inspecting the nose avionics wire harnesses for proper installation, and if any wire harness is not installed properly, securing it with cable ties; and
- removing the A017 component PCB, part number (P/N) 101–342536–1, and replacing it with a new A017 component PCB, P/N 101–342536–5 (or an approved FAA-equivalent part number).

The FAA's Determination

After examining the circumstances and reviewing all available information related to the incidents described above including the referenced service information above, the FAA has determined that AD action should be taken to prevent the loss of the pilot and co-pilot intercom, VHF communications, and passenger address system during critical flight, which could result in loss of all communication during critical phases of flight.

Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in other Raytheon Model 1900D airplanes of the same type design, the proposed AD would require: (1) Inspecting the radio switching panel and nose avionics wire harnesses for moisture and corrosion; (2) removing the corrosion; (3) locating and correcting the source of the moisture that is causing the corrosion; (4) repairing or replacing the corroded part; and, (5) replacing the A017 component PCB with a new A017 component PCB that has internal overcurrent protection fuses. Accomplishment of the proposed AD would be in accordance with Raytheon Service Bulletin (SB) No. 2643, dated August, 1996.

Cost Impact

The FAA estimates that 160 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 4 workhours per airplane to accomplish the proposed action, and that the average labor rate is approximately $60 an hour. Parts cost approximately $370 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $97,600 or $610 per airplane.

Raytheon has informed the FAA that they have shipped approximately 127 A017 component PCB's to the owners/operators of the affected airplanes. With this information in mind, the FAA would presume that 127 of the airplanes have already accomplished the proposed action, thereby reducing the total cost impact of the proposed AD on U.S. operators by $77,470 from $97,600 to $20,130.

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:

Raytheon Aircraft Company: Docket No. 97–CE–68–AD.

Applicability: Model 1900D airplanes (serial numbers UE–1 through UE–160), 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 (e) 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 within the next 1,000 hours time-in-service (TIS) after the effective date of this AD, unless already accomplished.

To prevent the loss of the pilot and co-pilot intercom, VHF communications, and passenger address system, which could result in loss of all communication during critical phases of flight, accomplish the following:

(a) Inspect the electrical connectors, the radio switching panel and its relay printed circuit boards (PCB's) for moisture and corrosion in accordance with the Accomplishment Instructions in Raytheon Service Bulletin (SB) No. 2643, dated August, 1996.

(1) If moisture is found, prior to further flight, clean and dry the component in accordance with the Accomplishment Instructions in Raytheon Service Bulletin (SB) No. 2643, dated August, 1996.

(2) If corrosion is found, prior to further flight, either clean or replace the component, depending on the severity, in accordance with the Accomplishment Instructions in Raytheon Service Bulletin (SB) No. 2643, dated August, 1996.

(3) If moisture or corrosion is found, prior to further flight, locate and eliminate the source (i.e., crack, hole, leak) in accordance with the Accomplishment Instructions in Raytheon Service Bulletin (SB) No. 2643, dated August, 1996.

(b) Inspect the nose avionics wire harnesses for proper installation, and if any wire harness is not installed properly, prior to further flight, secure it with cable ties in accordance with the Accomplishment Instructions in Raytheon Service Bulletin (SB) No. 2643, dated August, 1996.

(c) Remove the A017 component PCB, part number (P/N) 101–342536–1, and replace the PCB with a new A017 component PCB (P/N 101–342536–5 or an FAA-approved equivalent part number) in accordance with the Accomplishment Instructions in Raytheon Service Bulletin (SB) No. 2643, dated August, 1996.

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

(e) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Wichita Aircraft Certification Office, Room 100, 1801 Airport Rd., Wichita, Kansas 67209. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Wichita Aircraft Certification Office.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Wichita Aircraft Certification Office.

(f) All persons affected by this directive may obtain copies of the document referred to herein upon request to Raytheon Aircraft Company, P.O. Box 85, Wichita, Kansas 67201–0085; or may examine this document at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on January 14, 1998.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–1461 Filed 1–21–98; 8:45 am]

BILLING CODE 4910–13–U

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Chapter II

Bunk Beds; Advance Notice of Proposed Rulemaking; Request for Comments and Information

AGENCY: Consumer Product Safety Commission.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Commission has reason to believe that unreasonable risks of injury and death may be associated with bunk beds constructed so that children can become entrapped in the beds' structure or become wedged between the bed and a wall.

This advance notice of proposed rulemaking (''ANPR'') initiates a rulemaking proceeding that could result in a rule mandating bunk bed performance requirements to reduce this hazard. This rule could be issued under either the Federal Hazardous Substances Act (''FHSA'') or the Consumer Product Safety Act (''CPSA''), or separate rules might be issued under the FHSA and CPSA addressing bunk beds intended for use by children or adults, respectively.

The Commission solicits written comments from interested persons concerning the risks of injury and death associated with bunk beds, the regulatory alternatives discussed in this ANPR, other possible ways to address these risks, and the economic impacts of the various regulatory alternatives. The Commission also invites interested persons to submit an existing standard, or a statement of intent to modify or develop a voluntary standard, to address the risks of injury and death described in this ANPR.

DATES: Written comments and submissions in response to this ANPR must be received by the Commission by April 7, 1998.

ADDRESSES: Comments should be mailed, preferably in five copies, to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207–0001, or delivered to the Office of the Secretary, Consumer Product Safety Commission, Room 502, 4330 East-West Highway, Bethesda, Maryland; telephone (301) 504–0800. Comments also may be filed by telefacsimile to (301) 504–0127 or by email to cpsc-os@cpsc.gov. Comments should be captioned ''ANPR for Bunk Beds.'' [1]

[1] This ANPR was approved by a 2–1 vote of the Commission. Chairman Ann Brown and

FOR FURTHER INFORMATION CONTACT: John Preston, Directorate for Engineering Sciences, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 504–0494, ext. 1315.

SUPPLEMENTARY INFORMATION:

A. Background; History of Voluntary Standards Activities

Bunk beds have been long recognized as a potential source of serious injury to children. In 1978, an Inter-Industry Bunk Bed Safety Task Group developed a Bunk Bed Safety Guideline for voluntary use by manufacturers and retailers of bunk beds intended for home use. Members of this group included the National Association of Bedding Manufacturers, the National Association of Furniture Manufacturers, the Southern Furniture Manufacturers Association, and the National Home Furnishings Association. The guideline became effective on January 1, 1979.

In February 1981, an American National Standard for Bedding Products and Components (ANSI Z357.1) was published. For the most part, this standard contained dimensional requirements for mattresses and foundations for all beds. However, it also incorporated the requirements of the January 1, 1979, industry safety guideline for bunk beds. In May 1986, the American Furniture Manufacturer's Association (''AFMA'') published Voluntary Bunk Bed Safety Guidelines developed by the Inter-Industry Bunk Bed Committee (''IIBBC'').

On August 26, 1986, the Consumer Federation of America (''CFA'') filed a petition with CPSC requesting the promulgation of a mandatory safety regulation for bunk beds. In its petition, CFA cited three different risks of injury posed by bunk beds: Inadequate mattress supports that can allow the mattress to fall to the bunk below or to the floor, entrapment in the space between the guardrails and the mattress, and entrapment between the bed and the wall. CFA alleged that the voluntary industry guidelines did not fully address the hazards posed to consumers.

In July 1988, AFMA published Revised Voluntary Bunk Bed Safety Guidelines, with an effective date of April 1989. A majority of the revisions were made as a result of CPSC staff comments on the May 1986 guidelines, which included comments that the requirements addressing entrapment in openings in guardrails were not adequate and that bunk beds should be required to be sold with two guardrails. To prevent entrapment, the 1989 revised guidelines did require two guardrails to accompany a bunk bed, and required that any opening in the structure of the upper bunk be less than 3½ inches.

On July 21, 1988, the Commission voted to deny the petition filed by the CFA, but directed its staff to prepare a letter to AFMA and IIBBC urging that AFMA reconsider the CPSC staff comments that had not been included in the Revised Voluntary Bunk Bed Safety Guidelines. That letter was sent in August 1988. It also requested (a) that AFMA consider additional staff recommendations, (b) that AFMA submit the revised guidelines to a voluntary standards organization such as ANSI or ASTM for development as a voluntary safety standard, and (c) that AFMA develop, and provide to the Commission, a plan and proposed implementation date for a certification program to ensure that bunk beds complied with the guidelines. AFMA responded that a certification program would be established upon publication of an ASTM bunk bed standard.

In October 1992, ASTM published the Standard Consumer Safety Specification for Bunk Beds, ASTM F1427–92, in response to the Commission's August 1988 request. The performance requirements in that standard primarily addressed falls from the upper bunk, entrapment in the upper bunk structure or between the upper bunk and a wall, and security of the foundation support system. The standard also had a requirement for a warning label and for instructions to accompany the bed. In June 1994, the ASTM bunk bed standard was republished with additional provisions (requested by CPSC staff) to address collapse of tubular metal bunk beds. The most current version of the ASTM bunk bed standard was published in September 1996 and contains additional revisions suggested by CPSC staff. These address entrapment in lower bunk end structures; mattress size information on the warning label and carton; and the name and address of the manufacturer, distributor, or seller on the bed.

Because of continued reports of deaths and other incidents associated with bunk beds, and because of indications that there is inadequate compliance with the voluntary ASTM standard, the CPSC staff prepared a briefing package that summarized the available information. Copies of this briefing package can be obtained from the Commission's Office of the Secretary. After considering the available information, the Commission decided to publish this advance notice of proposed rulemaking to begin a rulemaking proceeding that could result in performance or other standards to address the risk of entrapment associated with bunk beds.

B. Incident Data

From January 1990 through September 1997, CPSC received reports of 85 bunk-bed-related deaths of children under age 15. As shown below, 54 (64 percent) were caused by entrapment. An additional 23 children died when they were inadvertently hanged from the bed by such items as belts, ropes, clothing, and bedding. Eight children died in falls from bunk beds during this period. Almost all (96 percent) of the entrapment victims were ages 3 and younger, whereas hanging and fall victims tended to be older than 3 years. The Commission continues to receive reports of incidents and other information concerning bunk bed entrapment hazards.

Available data indicate that the number of bunk-bed-related deaths has not decreased in recent years and that the majority of fatal incidents continue to involve entrapment. To better evaluate the extent of the entrapment problem, the Commission's staff also developed national estimates of the total number of entrapment deaths that occurred each year, using statistical methodology that examined the extent of overlap between data-reporting sources. These estimates projected that about 10 bunk bed entrapment deaths have occurred each year in the United States since 1990.

FATAL BUNK BED INCIDENTS REPORTED TO CPSC, BY YEAR AND HAZARD PATTERN

Year	Hazard pattern			
	Total	Entrap.	Hanging	Falls
1990	7	5	2	.....
1991	15	10	2	3

Commissioner Thomas H. Moore voted to approve this ANPR; Commissioner Mary S. Gall voted not to publish the ANPR.

FATAL BUNK BED INCIDENTS REPORTED TO CPSC, BY YEAR AND HAZARD PATTERN—Continued

Year	Hazard pattern			
	Total	Entrap.	Hanging	Falls
1992	4	3	1	.....
1993	19	10	7	2
1994	10	6	3	1
1995	12	5	5	2
1996	11	10	1	.....
1997	7	5	2	.....
Total	85	54	23	8

Source: CPSC Data Files, January 1990–September 1997, U.S. Consumer Product Safety Commission/EHHA.

CPSC staff reviewed available information on entrapment-related incidents, which accounted for the majority of deaths, to obtain additional detail about the circumstances involved. In all, CPSC received reports of 103 entrapment incidents from January 1990 through September 1997, including 54 that involved deaths and 49 that involved ''near-misses'' (where a child was entrapped, but usually with no or minor injury, often because another person intervened). Most reported incidents involved wooden bunk beds, and entrapment occurred most often on the top bunk. Common areas of entrapment were under the guardrail, within the end structures of the bed, and between the bed and the wall.

With three exceptions, almost all of the incidents involving fatal entrapment in the structure of bunk beds occurred in areas of the beds that apparently did not conform to the entrapment provisions in the current voluntary standard. Two of the three exceptions involved entrapment on the upper bunk. These beds had guardrails that did not run the entire length of the bed and, in each of the two incidents, a child slipped through the space between the end of the guardrail and the bed's end structure and became wedged between the bed and a wall. (The current standard permits guardrails that terminate before reaching the bed's end structure, provided there is no more than 15 inches between either end of the guardrail and the bed's closest end structure.)

The third death involving a conforming bunk bed occurred when a 22-month-old child was playing with an older sibling on a bunk bed and placed his head into a tapered opening between the underside of the upper bunk foundation and a structural member. This child is believed to have been standing on the lower bunk mattress, and, when his feet slipped off the mattress, he was suspended by his head. (The current standard only addresses openings in lower bunk end structures that are within 9 inches above the sleeping surface of the mattress.)

C. Market Information

Industry sources estimate that about 500,000 bunk beds are sold each year for residential use (excluding institutional sales), and that sales have been relatively stable over time. The annual retail value of sales has been estimated by AFMA at about $150 million. Industry sources estimate the average retail price of bunk beds to be about $300, but prices range from about $100 to $700. Bunk beds are marketed in specialty stores, furniture stores, department stores, and by mail order. There is also a market for used bunk beds in thrift shops, garage sales, and classified advertising.

Trade sources estimate the expected useful life of bunk beds to be 13–17 years. Based on available information, there are about 7–9 million bunk beds available for use, including bunk beds that are not currently used for sleeping, and those that are now used as two separate beds.

CPSC staff is aware of at least 106 bunk bed manufacturers, which are believed to produce the bulk of annual sales. Of the 106 identified firms, 40 are either members of AFMA or are members of the ASTM subcommittee that developed the existing voluntary standard for bunk beds. According to AFMA, these 40 firms represent 75–80 percent of the total annual shipments of bunk beds. While there are likely many other small regional manufacturers or importers of bunk beds in addition to the 106 identified firms, these are not likely to account for a significant share of the U.S. market.

D. Compliance With the Existing Voluntary Standard

There has been a continuing pattern of nonconformance to the voluntary standard. From June through August 1994, the Commission's Office of Compliance (Compliance) identified and sent letters of inquiry to 85 bunk bed manufacturers/importers, as part of a voluntary standard conformance monitoring project. Responses to these letters revealed that 17 companies were marketing bunk bed designs that presented potential entrapment hazards. Based on these responses, as well as on retail inspections, consumer complaints, and reported incidents, 41 manufacturers have, since November 1994, recalled wooden and metal bunk beds that did not conform to the entrapment requirements in the ASTM standard. The recalls involve over one-half million bunk beds.

In February 1997, Compliance assigned 45 inspections of bunk bed retailers nationwide. Examination of 77 beds from 35 different manufacturers by staff from CPSC's regional offices revealed that 12 bunk bed designs, each from a different manufacturer, did not conform with the entrapment requirements of the ASTM voluntary standard. Problems identified through these inspections resulted both in voluntary recalls of already produced beds and in corrections of future production. The most recent recall, in September 1997, involved five companies and pertained to 16,500 beds. One of these beds was involved in a fatal entrapment incident.

As noted above, CPSC's staff identified 106 manufacturers and importers of wooden and metal bunk beds. The Commission believes that the actual number of manufacturers and importers could be much higher. Because of the relative ease of constructing bunk beds, many small companies are formed each year. These may quickly go in and out of the business of making bunk beds. These companies are normally not associated with industry organizations, and are often unaware of the voluntary standard or misinterpret its requirements. Accordingly, the Commission preliminarily concludes that it is very likely that there will continue to be serious conformance problems with the voluntary standard.

E. The Potential Need for a Mandatory Standard

Although the voluntary standard improves the safety of bunk beds, companies are not required to comply with it. Some manufacturers contacted by Compliance did not see an urgency to comply with a ''voluntary'' standard, and they did not recognize the hazards associated with noncompliance. As a result, entrapment hazards will continue to exist on beds in use and for sale. Currently, all 106 manufacturers identified by CPSC staff appear to be producing beds that conform to the entrapment requirements in the ASTM F1427 bunk bed standard. However, small regional manufacturers that periodically enter the marketplace may not be aware of the voluntary standard, or of the hazards that are associated with bunk beds.

The Commission believes that a mandatory entrapment standard may be needed for the following reasons:

1. The adoption of a mandatory standard could increase the awareness and sense of urgency of manufacturers regarding compliance with the entrapment provisions, thereby increasing the degree of conformance to those provisions.

2. A mandatory standard would allow the Commission to seek penalties for violations. Publicizing fines for noncompliance with a mandatory standard would deter other manufacturers from making noncomplying beds.

3. A mandatory standard would allow state and local officials to assist CPSC staff in identifying noncomplying bunk beds and take action to prevent the sale of these beds.

4. Under a mandatory standard, retailers, and distributors would violate the law if they sold noncomplying bunk beds. Retailers and retail associations would then insist that manufacturers and importers provide complying bunk beds.

5. The bunk bed industry is extremely competitive. Manufacturers who now conform with the ASTM standard have expressed concern about those firms that do not. Nonconforming beds can undercut the cost of conforming beds. A mandatory standard would establish a level playing field and take away any competitive cost advantage for unsafe beds.

6. A mandatory standard would help prevent noncomplying beds made by foreign manufacturers from entering the United States. CPSC could use the resources of U.S. Customs to assist in stopping hazardous beds at the docks.

7. The absence of manufacturer identification on many beds has resulted in extremely low recall effectiveness rates. A mandatory standard could require companies to include identification on the beds.

8. Although the Commission currently believes that the ASTM voluntary standard for bunk beds adequately addresses the most common entrapment hazards associated with these products, the Commission is aware of three entrapment fatalities that occurred in conforming beds. A mandatory standard could modify the provisions in the voluntary standard so as to address the deaths that can occur on beds that comply with the voluntary standard.

Therefore, the Commission decided to issue an ANPR to begin a rulemaking proceeding and to seek public comment on all aspects of this proceeding, including (a) the need for a mandatory standard and (b) any additional requirements that may be needed to address fatalities known to have occurred on bunk beds conforming to the current voluntary standard.

However, the available information does not support a conclusion that changes to currently produced bunk beds would significantly reduce the number of fatalities due to falls and hangings. Thus, although information on these hazards is welcome, the Commission does not at this time intend to propose performance requirements to address falls or hangings from bunk beds.

F. Cost/Benefit Considerations

To provide some preliminary information on additional costs to conform to the entrapment requirements of the existing voluntary standard, CPSC's Economics staff contacted four manufacturers who had modified their production for that reason. The most expensive modification was the addition of a second guardrail to the top bunk. Two firms estimated that the additional guardrail would add $15–20 to the retail price of these products. The other two manufacturers, who market beds in the ''mid to upper'' price range, estimated a $30–40 increase in the retail price of their products. This increased cost would be incurred only by those firms that do not now conform to the voluntary standard.

CPSC estimates that the costs to society of bunk bed entrapment deaths is about $174–346 per bed over its expected useful life. The costs of bringing bunk beds into conformance with entrapment requirements range from $15–40 per bed. If the measures taken to address bunk-bed-related entrapment deaths were only about 4 to 23 percent effective in reducing these deaths, the costs and the benefits of such an activity would be about equal. In fact, the Commission expects that a mandatory standard would be substantially more effective than this.

G. Statutory Authorities for This Proceeding

What statute is appropriate for regulating bunk beds? CPSA section 3(a)(1), 15 U.S.C. 2052(a)(1). The Federal Hazardous Substances Act (''FHSA'') authorizes the regulation of unreasonable risks of injury associated with articles intended for use by children that present mechanical (or electrical or thermal) hazards. FHSA section 2(f)(D), 15 U.S.C. 1261(f)(D). The hazards associated with bunk beds that are described above are mechanical. See FHSA section 2(s), 15 U.S.C. 1261(s). The Consumer Product Safety Act (''CPSA'') authorizes the regulation of unreasonable risks of injury associated with ''consumer products,'' which include bunk beds—whether intended for the use of children or adults. CPSA section 3(a)(1), 15 U.S.C. 2052(a)(1). Thus, bunk beds intended for the use of adults can be regulated only under the CPSA, while bunk beds intended for the use of children potentially could be regulated under either the FHSA or the CPSA. Bunk beds probably would be considered as intended for use by children only if they have smaller than twin-size mattresses or incorporate styling or other features especially intended for use or enjoyment by children.

Section 30(d) of the CPSA, however, provides that a risk associated with a consumer product that can be reduced to a sufficient extent by action under the FHSA can be regulated under the CPSA only if the Commission, by rule, finds that it is in the public interest to do so. 15 U.S.C. 2079(d). Accordingly, children's bunk beds could be regulated only under the FHSA, unless the Commission finds that it is in the public interest to regulate them under the CPSA. Thus, assuming that ''adult'' and ''children's'' bunk beds each present an unreasonable risk of injury, the Commission could:

1. Issue a rule for children's bunk beds under the FHSA and a rule for adult bunk beds under the CPSA; or

2. Issue a rule under the CPSA for both adult and children's bunk beds, and issue a rule under CPSA § 30(d) that it is in the public interest to do so.

A possible reason for finding that it is in the public interest to regulate both adult and children's bunk beds under the CPSA would be to avoid confusion as to which act applied to a particular bunk bed. The Commission will make a decision on which act(s) should be used

if and when it decides to issue a proposed rule addressing the hazards of bunk beds. As discussed below, the procedure and statutory findings required to issue a rule for bunk beds are essentially identical under either act. Accordingly, any final rule may be issued under the CPSA, the FHSA, or a combination of the two acts.

What effect will the existence of the voluntary standard have on the rulemaking? The Commission may not issue a standard under either the CPSA or the FHSA if industry has adopted and implemented a voluntary standard to address the risk, unless the Commission finds that ''(i) compliance with such voluntary * * * standard is not likely to result in the elimination or adequate reduction of such risk of injury; or (ii) it is unlikely that there will be substantial compliance with such voluntary * * * standard.'' In this case, it appears that a high percentage of bunk beds comply with ASTM F1427–92. Accordingly, the Commission has addressed the issue of whether the relatively high degree of compliance with the ASTM standard (possibly 90 percent or more) constitutes ''substantial compliance'' that would prevent the Commission from issuing a mandatory standard for bunk beds.

Neither statute defines the term ''substantial compliance.'' However, guidance is provided by the legislative history of the CPSA:

> In determining whether or not it is likely that there will be substantial compliance with such voluntary * * * standard, the Commission should determine whether or not there will be sufficient compliance to eliminate or adequately reduce an unreasonable risk of injury in a timely fashion. Therefore, compliance generally should be measured in terms of the number of complying products rather than in terms of complying manufacturers.

H.R. Conf. Rep. No. 208, 97th Cong., 1st Sess. 873 (1981): ''Adequately reduce'' means to reduce the risk ''to a sufficient extent that there will no longer exist an unreasonable risk of injury.'' *Id.* This legislative history suggests that substantial compliance means that there will be sufficient compliance with the voluntary standard to reduce the product's risk to the point that the risk is no longer ''unreasonable.''

Factors that are relevant both to a determination of unreasonable risk and to whether there is substantial compliance are the severity of the remaining injuries and the vulnerability of the injured population. The CPSC staff's analysis shows that issuing a mandatory rule could save a significant number of children's lives. Thus, the injuries are severe, and the affected population is extremely vulnerable. The cost/benefit information discussed above indicates a likelihood that the benefits of a rule for bunk beds would bear a reasonable relationship to its costs, and the remaining risks from bunk beds are thus ''unreasonable.'' *See* 15 U.S.C. 1262(i)(2)(B), 2058(f)(3)(E). Accordingly, the Commission preliminarily concludes that there currently is not substantial compliance with the ASTM standard.

Rulemaking procedure. Before adopting a CPSA standard or FHSA rule, the Commission first must issue an ANPR as provided in section 3(f) of the FHSA or section 9(a) of the CPSA. 15 U.S.C. 1262(f), 2058(a). If the Commission decides to continue the rulemaking proceeding after considering responses to the ANPR, the Commission must then publish the text of the proposed rule, along with a preliminary regulatory analysis, in accordance with section 3(h) of the FHSA or section 9(c) of the CPSA. 15 U.S.C. 1262(h), 2058(c). If the Commission then wishes to issue a final rule, it must publish the text of the final rule and a final regulatory analysis that includes the elements stated in 3(i)(1) of the FHSA or section 9(f)(2) of the CPSA. 15 U.S.C. 1262(i)(1), 2058(f)(2). And before issuing a final regulation, the Commission must make certain statutory findings concerning voluntary standards, the relationship of the costs and benefits of the rule, and the burden imposed by the regulation. FHSA section 3(i)(2), CPSC section 9(f)(3), 15 U.S.C. 2058(f)(3).

H. Regulatory Alternatives Under Consideration

The Commission is considering alternatives to reduce the number of injuries and deaths associated with bunk beds. In addition to possible performance standards similar to the current ASTM standard, additional performance standards may be developed to supplement the entrapment provisions of the ASTM standard. Further, the potential for labeling or instructions requirements and information and education campaigns to reduce the risk will be considered, either instead of or in addition to a mandatory standard.

It is also possible that a voluntary standard could be developed that would adequately reduce the risks of entrapment, falls, and hanging. The Commission is not aware of any voluntary standard in effect that applies to the identified risks of bunk beds other than ASTM F1427–96. As noted above, the Commission has preliminarily concluded that the degree of compliance with this ASTM standard may be insufficient and some fatalities have occurred that are not adequately addressed by that standard. However, if improved voluntary standards are developed and implemented, the Commission would take that into account in deciding whether a mandatory standard is necessary.

I. Solicitation of Information and Comments

This ANPR is the first step of a proceeding which could result in a mandatory performance, labeling, or instructions standard for bunk beds to address the risk of entrapment. All interested persons are invited to submit to the Commission their comments on any aspect of the alternatives discussed above. In particular, CPSC solicits the following additional information:

1. The models and numbers of bunk beds produced for sale in the U.S. each year from 1990 to the present;
2. The names and addresses of manufacturers and distributors of bunk beds;
3. The number of persons injured or killed by the hazards associated with bunk beds;
4. The circumstances under which these injuries and deaths occur, including the ages of the victims;
5. An explanation of designs that could be adapted to bunk beds to reduce the risk of entrapment;
6. Characteristics of the product that could or should not be used to define which products might be subject to the requested rule, and which products, if any, are intended for use by children, and which for adults;
7. Other information on the potential costs and benefits of potential rules;
8. Steps that have been taken by industry or others to reduce the risk of injuries from the product;
9. The likelihood and nature of any significant economic impact of a rule on small entities;
10. The costs and benefits of mandating a labeling or instructions requirement.

Also, in accordance with section 3(f) of the FHSA and section 9(a) of the CPSA, the Commission solicits:

1. Written comments with respect to the risk of injury identified by the Commission, the regulatory alternatives being considered, and other possible alternatives for addressing the risk.
2. Any existing standard or portion of a standard which could be issued as a proposed regulation.
3. A statement of intention to modify or develop a voluntary standard to address the risk of injury discussed in this notice, along with a description of a plan (including a schedule) to do so.

Comments should be mailed, preferably in five copies, to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207–0001, or delivered to the Office of the Secretary, Consumer Product Safety Commission, Room 502, 4330 East-West Highway, Bethesda, Maryland 20814; telephone (301) 504–0800. Comments also may be filed by telefacsimile to (301) 504–0127 or by email to cpsc-os@cpsc.gov. Comments should be captioned ''ANPR for Bunk Beds.'' All comments and submissions should be received no later than April 7, 1998.

Dated: January 15, 1998.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 98–1457 Filed 1–21–98; 8:45 am]

BILLING CODE 6355–01–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 140

Requests for Exemptive, No-Action and Interpretative Letters

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rule.

SUMMARY: The Commodity Futures Trading Commission (''Commission'') is proposing new regulations to establish procedures for the filing of requests for the issuance of exemptive, no-action and interpretative letters from the Commission's staff.

DATES: Comments on the proposed rule must be received on or before March 23, 1998.

ADDRESSES: Comments on the proposed rule should be sent to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Center, 1155 21st Street, N.W., Washington, D.C. 20581. Comments may be sent by facsimile transmission to (202) 418–5528, or by e-mail to secretary@cftc.gov. Reference should be made to ''Rule Proposal Re: Requests for Exemptive, No-Action, and Interpretative Letters.''

FOR FURTHER INFORMATION CONTACT: Christopher W. Cummings, Special Counsel, or Helene D. Schroeder, Attorney-Adviser, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C., 20581. Telephone: (202) 418–5450.

SUPPLEMENTARY INFORMATION:

I. Requests for Exemptive, No-Action and Interpretative Letters

A. Background

In the course of administering the Commodity Exchange Act (''Act'')[1] and the rules, regulations and orders promulgated thereunder by the Commission,[2] Commission staff receive written requests for advice on or interpretation of particular provisions of the Act or Commission rules to proposed conduct or transactions. If appropriate, Commission staff provide the advice or guidance sought through the issuance of exemptive, no-action or interpretative letters (''Letters'').[3] Currently, there are no Commission rules setting forth procedures for requests for Letters.[4]

The Commission is of the view that establishment of uniform procedural rules governing these requests will significantly assist the Commission and its staff by assuring a focused presentation of the guidance sought, the issues raised thereby, and relevant precedent. The Commission is therefore now proposing uniform procedures for the filing of requests for exemptive, no-action or interpretative letters. These procedures are intended to elicit from the outset the information that staff will need to evaluate a request, and to minimize staff resources expended in seeking additional information.

Letters generally should be requested from (and, if appropriate, issued by) Commission staff in instances where the need for guidance or clarification of a rule's applicability arises from relatively routine circumstances. The Commission believes that the best mechanism for handling novel or complex issues, significant gaps in regulatory coverage, relief from regulatory requirements or initiatives for regulatory reform generally is the notice and comment rulemaking process or, where appropriate, exemptive action by the Commission itself after notice and public comment. This is especially true where a perceived issue is likely to affect a large number of persons or entities. Accordingly, the Commission reminds registrants, counsel and the public that it is receptive to public and industry input (including, for example, petitions for rulemaking actions and petitions for Commission exemptive action or other orders) in the continuing process of adapting its regulatory framework to changing market circumstances. The Commission also notes that, notwithstanding the requirements for Letters set forth herein, registrants, other industry participants, counsel and members of the public should feel free to seek information from Commission staff in those situations where they do not require no-action relief, or a formal interpretation of statutory or regulatory provisions.

Although not required to do so (see II. Related Matters, below), the Commission invites public comment on this proposal.

B. The Proposed Rule

1. Definitions

Paragraph (a) of the proposed rule sets forth definitions for exemptive, no-action and interpretative letters. The term ''exemptive'' letter is defined as a written grant of relief to a specified person from the applicability of a specific provision of the Act or a Commission rule, regulation or order. Exemptive letters may be issued by Commission staff only in those situations where: (a) the Commission itself has exemptive authority; and (b) that authority has been delegated to staff.[5]

A ''no-action'' letter is defined as a written statement that staff of a specific division will not recommend enforcement action to the Commission if a proposed transaction is undertaken or a proposed activity is conducted. A no-action letter represents the position of only the division issuing it and is binding only upon that division and not

[1] 7 U.S.C. § *1 et seq.* (1994).

[2] Commission regulations are found at 17 C.F.R. Ch. I *et seq.*

[3] These types of letters are proposed to be defined in Rule 140.99 (a)(1), (a)(2), and (a)(3), respectively, and each is discussed in Part b, below.

[4] By contrast, since 1971, the Securities and Exchange Commission (''SEC'') has required conformity with certain procedures by persons submitting requests for no-action or interpretative letters. *See* Securities Act Release No. 5127, 36 FR 2600 (Jan. 25, 1971) (prescribed procedures for requests under the Securities Act of 1933, Securities Exchange Act of 1934, Public Utility Holding Company Act of 1935, Trust Indenture Act of 1939, Investment Company Act of 1940 and Investment Advisers Act of 1940). Some of these procedures have been modified or supplemented by SEC staff. *See, e.g.,* Securities Act Release No. 6253, 45 FR 72644 (Oct. 28, 1980) (institution of abbreviated response procedures by Division of Corporation Finance); and Securities Act Release No. 6269 (Dec. 5, 1980) (institution of seven-copy requirement for requests to Division of Corporation Finance).

[5] The proposed rule governs requests submitted to and processed by Commission staff. In certain circumstances, however, requests must be submitted to and processed by the Commission itself. For example, where exemptive authority has not been delegated to the staff, exemptive relief must be granted by Commission order (*e.g.,* under Section 4(c) of the Act, 7 U.S.C. § 6(c) (1994)). The Commission intends that persons making exemption requests of it should comply with the requirements of the applicable section of the Act or Commission rules, regulations or orders, although paragraphs (b), (c), (f) and (h) of the proposed rule provide some useful guidance for such requests.

on the Commission or other divisions. Further, a no-action letter is only effective with respect to the person or persons to whom it was issued.

An ''interpretative'' letter refers to written advice or guidance with respect to the interpretation of a specific provision of the Act or a specific Commission rule, regulation or order, which advice or guidance is provided in the context of a proposed transaction or activity. These letters are usually issued by the staff of a particular division of the Commission or the Office of the General Counsel and, unless otherwise noted, reflect only the views of the division or the Office of the General Counsel.[6] Unlike no-action letters (or exemptive letters), an interpretative letter can be relied upon by persons other than those to whom the letter was issued, but it is binding only upon the Commission staff unit issuing it, and not upon the Commission itself.

Issuance of Letters is entirely within the discretion of Commission staff. A request may be denied, or staff may refuse to consider a request, without explanation. See paragraph (b)(1) of the proposed rule.

2. General Requirements

Paragraph (b) of the proposed rule sets forth the general requirements for requests for Letters. All requests must relate to a specific proposed activity or transaction and must set forth as completely as possible the particular facts and circumstances giving rise to the request.[7] The proposed rule codifies the policy adhered to by Commission staff of not providing responses to requests based on hypothetical situations. The request may be submitted by the person seeking a Letter or by that person's authorized representative. In any case, the person on whose behalf a Letter is sought must be identified. Consistent with current practice, Commission staff will not respond to requests submitted on behalf of unnamed persons.

If the Commission were to adopt the proposed rule, Commission staff would expect all requests for Letters to comply with the rule's requirements. A request that does not comply with the rule as adopted may be rejected by Commission staff without further analysis.[8]

3. Information Requirements

Requests for Letters should contain the information set forth in paragraph (c). Specifically, each request should identify the requester's name, main business address, telephone number, and if applicable, National Futures Association registration identification number as well as corresponding information concerning any other persons on whose behalf the Letter is being sought. The request must also provide the name, address and telephone number of a contact person from whom Commission staff may obtain additional information if necessary.

Paragraph (c)(2) of the proposed rule requires that the specific section number of the Act and/or Commission rule, regulation or order to which the request relates be set forth in the upper right-hand corner of the first page of the request. This requirement will facilitate the proper routing of the request within the Commission.

Paragraph (c)(3) requires that all requests for exemptive, no-action or interpretative letters be accompanied by a certification that the representations contained in the request are true and accurate, along with an undertaking to supplement the request in the event any material fact changes or ceases to be true. The requester must make a complete and reliable presentation of the facts relevant to a request. A certification requirement is intended to assure that requesters fully review the facts and keep Commission staff advised of changed circumstances, without the need for repeated requests by staff for supplemental information.

Paragraph (c)(4) of the proposed rule requires that each request specify the particular type of Letter being sought along with a discussion of the reasons why the requester needs a Letter. In this regard, the request should identify not only the specific concerns underlying the proposed transaction or activity giving rise to the request, but also the legal or public policy reasons for granting the request. Failure to frame an identifiable issue or problem and a reasonable justification for the relief or interpretation sought will be grounds for rejection of a request.

Paragraph (c)(5) of the proposed rule requires that requests make reference to all relevant authority, including the Act, Commission rules, regulations and orders, relevant case law, and any administrative decisions on the issue. In this regard, the request must identify and distinguish all adverse authority.

If Commission staff have previously issued a Letter in circumstances similar to those set forth in the request, paragraph (c)(6) requires that the request identify the prior Letter along with the conditions, if any, that were imposed by the division issuing the Letter. Requesters and their counsel must exercise due diligence in identifying and assembling the relevant authorities, including prior Letters of Commission staff.

Under paragraph (c)(7) of the proposed rule, it would be appropriate in a request Letter to ask for alternative relief if the primary relief requested is denied.

4. Filing Requirements

Paragraph (d) of the proposed rule establishes the procedures for filing requests for Letters. Specifically, paragraph (d)(1) requires that each request be made in writing and signed. ''Draft'' requests for Letters will not be considered.

Pursuant to paragraph (d)(2), the request must be filed with the Director of the Division of Trading and Markets, who will then forward the request to the appropriate division within the Commission. Under ordinary circumstances the Division of Trading and Markets and the Division of Economic Analysis will issue no-action letters, and the Office of the General Counsel will issue statutory interpretations. Interpretative letters concerning rules or regulations will be referred either to one of the Divisions or to the Office of the General Counsel depending upon the issue to be addressed.

The requirement that all requests be in writing codifies current agency practice. Oral requests for Letters will not be recognized.

Commenters specifically are requested to address whether the rule should permit requests to be filed electronically.

5. Form of Staff Response

Paragraph (e) of the proposed rule provides Commission staff with flexibility as to the level of detail necessary for a staff response to a request for a Letter. Paragraph (e) affords Commission staff the option of providing a responsive letter in an abbreviated or endorsement format that

[6] Statutory interpretations are issued by staff of the Office of the General Counsel. Requests for interpretations of rule provisions will be assigned on a case-by-case basis to staff of the Division of Trading and Markets, the Division of Economic Analysis or the Office of the General Counsel.

[7] Where charts or diagrams are likely to facilitate the staff's understanding of the relevant facts, requesters are encouraged to submit such materials with their initial correspondence.

[8] In proposing to codify the authority of its staff to reject non-conforming requests, the Commission is not proposing to alter the staff's current practice of declining to respond to requests in other circumstances, such as when legal, policy or practical considerations make it inappropriate to respond to the merits of a request. *See* paragraph (b)(1).

merely sets forth the staff's position and does not contain a detailed recitation of the facts. In such cases, the Letter would provide that it is based on the facts and representations set forth in the request and thus would incorporate by reference those facts and representations. Use of this abbreviated format, where appropriate, may lessen the burden on Commission staff in responding to requests for Letters.[9] The Commission requests public comment on whether and in what circumstances it should utilize this abbreviated procedure.

As set forth in paragraph (e), no grant of any request governed by the proposed rule shall be effective unless it is in writing signed by responsible Commission staff and has been transmitted in final form to the requester. Oral indications from staff are not binding and should not be relied on.[10] Likewise, it is highly inappropriate for a requester to state in a request letter that the requester will assume relief has been granted and will proceed with the proposed transaction if the requester does not receive a negative response from Commission staff by a certain date. Failure by staff to respond to a request for a Letter does not constitute staff approval of the request.[11]

6. Withdrawal of Requests

Paragraph (f) of the proposed rule makes clear that any withdrawal of a request for a Letter may be accomplished only if: (1) the requester certifies in writing that the person making the request or on whose behalf the request has been made has determined not to proceed with the contemplated transaction or that intervening events have rendered the request moot; [12] or (2) the requester has sought confidential treatment in accordance with Rule 140.98 and Commission staff has determined that confidential treatment should not be granted (in which case Rule 140.98 permits the requester to withdraw within 30 days of being so notified). The proposed rule is not intended to modify or affect the provisions of Rule 140.98.

In permitting withdrawal in limited circumstances only, the proposed rule is intended to eliminate the past practice of certain requesters of submitting requests (often in draft form) and then withdrawing them if it appeared likely that an adverse response would be received.[13]

Although the goal of the proposed rule is that initial requests will be as complete and thorough as possible, Commission staff from time to time will need to seek additional information from requesters in order to process a request. Where Commission staff asks for supplemental information or analysis, the requester should respond as quickly as practicable. Paragraph (g) of the proposed rule provides that an adverse response generally will be issued where the requester fails to provide additional information or analysis within 30 days of receiving a request for the same from Commission staff, unless an extension is granted by Commission staff considering the request.

7. Confidential Treatment

Paragraph (h) of the proposed rule makes clear that where confidential treatment is sought, it must be requested separately, in conformity with Rule 140.98 or Rule 145.9 as applicable. These sections pertain, respectively, to requests for confidential treatment of: (a) the request for a Letter as well as the Letter issued in response; and (b) information submitted to the Commission which may be sought under the Freedom of Information Act, 5 U.S.C. 552.

8. Applicability to Other Sections

Paragraph (i) of the proposed rule makes clear that the rule would not alter existing provisions of the Act or Commission rules, regulations or orders (such as Rules 4.5, 4.7 and 4.12(b)) under which specified exemptive relief is available upon the filing of a notice of claim of (or eligibility for) the particular exemption.

II. Related Matters

A. Administrative Procedure Act

The Administrative Procedure Act, 5 U.S.C. 553(b), sets forth an exemption from the generally applicable notice-and-comment requirement for informal rulemaking where the rules at issue concern agency organization, procedure or practice. Although the rule proposed herein pertains exclusively to agency procedures and practice, the Commission is interested in receiving comment from the public on the proposal and, accordingly, is publishing the proposal for notice and public comment.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (''RFA''), 5 U.S.C. 601 *et seq.*, requires each federal agency to consider in the course of proposing substantive rules, the effect of those rules on small entities. The proposed rule makes clear that requests may be made by any person, including those that would constitute ''small entities'' within the meaning of the RFA. The uniformity mandated by the rule will provide greater certainty to requesters as to the procedures to follow in seeking relief or advice and, to this extent, the rule removes a burden on all requesters, regardless of their size.

Additionally, the Commission has built maximum flexibility into the operation of the rule by making it clear that Commission staff ''may,'' but are not required to, decline to respond to a request that does not meet the requirements of the rule. See paragraph (b)(2). When a non-conforming request is submitted by a person who lacks adequate financial resources to retain counsel (or in other circumstances where strict application of the rule would be inequitable), Commission staff may accommodate the requester by accepting the non-conforming request, by providing guidance to the requester in the proper formulation and filing of the request, or by other means.

The Chairperson, on behalf of the Commission, hereby certifies, pursuant to 5 U.S.C. § 605(b), that the action taken herein will not have a significant economic impact on a substantial number of small entities.

C. Paperwork Reduction Act

When publishing proposed rules, the Paperwork Reduction Act of 1995 (Pub. L. 104–13 (May 13, 1995)) imposes certain requirements on federal agencies (including the Commission) in connection with conducting or sponsoring any collection of information as defined by the Paperwork Reduction Act. In compliance with the Act, the Commission, through this rule proposal, solicits comments to:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including the validity of the methodology and

[9] This procedure is followed by the SEC's Divisions of Corporation Finance and Investment Management. The abbreviated procedure as adopted by the Division of Corporation Finance is set forth in Securities Act Release No. 6253, *supra* note 4.

[10] Commission staff field numerous telephone inquiries from the public and provide information and guidance as appropriate. These proposed rules are not intended to alter this practice. However, while statements made during those conversations are intended to be helpful, they are not binding on the staff or the Commission.

[11] *See Precious Metals Associates, Inc. v. CFTC*, 620 F.2d 900 (1st Cir. 1980).

[12] For example, a request for relief under Rule 4.7(a) notwithstanding participation by a person who is not a qualified eligible participant (''QEP'') may become moot if the proposed participation becomes able to meet the QEP criteria.

[13] It is hoped that the provision in paragraph (c)(7) allowing for requests for relief in the alternatives should eliminate any perceived need for this practice.

assumptions used; (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; and (4) minimize the burden of the collection of the 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.

The Commission has submitted this proposed rule and its associated information collection requirements to the Office of Management and Budget.

The burden associated with this proposed rule, is as follows:

Average burden hours per response: 7.

Number of respondents: 215.

Frequency of response: 1.3.

Persons wishing to comment on the information that would be required by this proposed/amended rule should contact the Desk Officer, CFTC, Office of Management and Budget, Room 10202, NEOB, Washington, DC 20503 (202) 395–7340. Copies of the information collection submission to OMB are available from the CFTC Clearance Officer, 1155 21st Street, NW., Washington, DC 20581 (202) 418–5160.

List of Subjects in 7 CFR Part 140

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

In consideration of the foregoing and pursuant to the authority contained in the Commodity Exchange Act and in particular section 8(a) of the Act, as amended, 7 U.S.C. 12(a), the Commission hereby proposes to amend Chapter I of title 17 of the Code of Federal Regulations as follows:

PART 140—ORGANIZATION, FUNCTIONS, AND PROCEDURES OF THE COMMISSION

1. The authority citation for part 140 continues to read as follows:

Authority: 7 U.S.C. 7a(j) and 12a.

2. Section 140.99 is proposed to be added to read as follows:

§ 140.99 Requests for Exemptive, No-Action and Interpretative Letters.

(a) *Definitions.* For the purpose of this section:

(1) *Exemptive letter* means a written grant of relief from the staff of a Division of the Commission from the applicability of a specific provision of the Act or of a rule, regulation or order issued thereunder by the Commission. An exemptive letter may only be issued by Commission staff when the Commission itself has exemptive authority and that authority has been delegated by the Commission to the Division in question.

(2) *No-action letter* means a written statement from the staff of a Division of the Commission that it will not recommend enforcement action to the Commission for failure to comply with a specific provision of the Act or of a Commission rule, regulation or order if a proposed transaction is completed or a proposed activity is conducted by the person or persons who requested such letter. A no-action letter represents the position of only the Division that issued it and is applicable only with respect to the particular circumstances and binding only with respect to parties addressed by the letter. A no-action letter does not bind the Commission itself or any other division thereof.

(3) *Interpretative letter* means written advice or guidance from Commission staff (binding only upon the staff unit providing the advice or guidance and not upon the Commission itself) and may take the form of:

(i) Written advice or guidance from the staff of a particular Division of the Commission or the staff of the Office of the General Counsel with respect to the interpretation of a specific provision of a Commission rule, regulation or order in the context of a proposed transaction or a proposed activity; or

(ii) Written advice or guidance from the staff of the Office of the General Counsel with respect to the interpretation of a specific provision of the Act.

(4) *Letter* means an exemptive, no-action or interpretative letter.

(5) *Division* as used in this section means the Division of Trading and Markets or the Division of Economic Analysis.

(b) *General requirements*—(1) Issuance of Letters is entirely within the discretion of Commission staff. A request may be denied, or staff may refuse to consider or respond to a request without explanation.

(2) Each request for a Letter must comply with the requirements of this section. Commission staff may reject or decline to respond to a request that does not comply with the requirements of this section.

(3) The request must relate to a proposed activity or a proposed transaction. Absent extraordinary circumstances, Commission staff will not issue a Letter based upon past transactions or activities.

(4) The request may be made by a person seeking a Letter or by an authorized representative of such person. Commission staff will not respond to a request for a Letter that is made by or on behalf of an unidentified person.

(5)(i) The request must set forth as completely as possible the particular facts and circumstances giving rise to the request.

(ii) Commission staff will not respond to a request based on a hypothetical situation.

(c) *Information requirements.* Each request for a Letter must comply with the following information requirements:

(1)(i) A request made by the person seeking a Letter must contain:

(A) The name, main business address, main telephone number and, as applicable, the National Futures Association registration identification number of such person; and

(B) The name and, as applicable, the National Futures Association registration identification number of each other person for whom the requester is seeking the Letter.

(ii) When made by an authorized representative of the person seeking a Letter, the request must contain:

(A) The name, main business address and main business telephone number of the representative;

(B) The name and, as applicable, the National Futures Association registration identification number of the person seeking a Letter; and

(C) The name, and as applicable, the National Futures Association registration identification number of each other person for whom the requester is seeking the Letter.

(iii) The request must provide the name, address and telephone number of a contact person from whom Commission staff may obtain additional information if necessary.

(2) The section numbers of the particular provisions of the Act and/or Commission rules, regulations in this chapter, or orders to which the request relates must be set forth in the upper right-hand corner of the first page of the request.

(3) The request must be accompanied by:

(i) A certification by a person with knowledge of the facts that the representations made in the request are accurate and complete. The following form of certification is sufficient for this purpose:

I hereby certify that the statements contained in the attached letter dated _____ are true and complete to the best of my knowledge.

_____

(Name and Title)

and

(ii) An undertaking by such person on behalf of the person seeking a Letter that at such time as any material representation made in the request ceases to be accurate and complete, the person who has made the request or received the Letter will promptly submit a written supplement reflecting all material changed circumstances.

(4) The request must identify the type of relief requested and Letter sought and must clearly state why a Letter is needed. The request must identify all relevant legal and factual issues and must discuss the legal and public policy bases supporting issuance of the Letter.

(5) The request must contain references to all relevant authorities, including the Act, Commission rules, regulations in this chapter, and orders, judicial decisions, administrative decisions, relevant statutory interpretations and policy statements. Adverse authority must be cited and discussed.

(6) The request must identify prior Letters issued by Commission staff in response to circumstances similar to those surrounding the request (including adverse Letters), and must identify any conditions imposed by prior Letters as prerequisites for the issuance of those Letters.

(7) Requests may ask that, if the primary relief is denied, alternative relief be granted.

(d) *Filing requirements.* Each request for a Letter must comply with the following filing requirements:

(1) The request must be made in writing and signed.

(2) The request must be filed with the Director, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581. The Director will route the request to the appropriate division.

(e) *Form of staff response.* No grant of any request governed by this section is effective unless it is in writing signed by responsible Commission staff and has been transmitted in final form to the requester. Failure by Commission staff to respond to a request for a Letter does not constitute approval of the request. Nothing in this section shall preclude Commission staff from responding to a request for a Letter by way of endorsement or any other abbreviated, written form of response.

(f) *Withdrawal of requests.* Once filed, a request for a Letter may only be withdrawn if:

(1) A request for withdrawal is made in writing and makes the following representations, as applicable, together with a certification that such representations are true:

(i) The person on whose behalf the request was made has determined not to proceed with the proposed transaction or activity, or

(ii) Intervening events have rendered the request moot; or

(2) The request is the subject of a request for confidential treatment pursuant to § 140.98 and Commission staff has notified the requester that the request for confidential treat-ment will be denied, in which event the requester may withdraw the letter within 30 days after such notification, as provided in § 140.98.

(g) *Failure to pursue a request.* If a requester fails to respond within 30 calendar days of the date of a request from Commission staff for additional information or analysis, Commission staff generally will issue an adverse response, unless an extension of time has been granted.

(h) *Confidential treatment.* If a requester seeks confidential treatment of a request for a Letter that it has filed, such treatment must be separately requested in accordance with § 140.98 or § 145.9 of this chapter, as applicable.

(i) *Applicability to other sections.* The provisions of this section shall not affect the requirements of, or otherwise be applicable to, notice filings required to be made to claim relief from the Act or from a Commission rule, regulation or order including, without limitation, §§ 4.5, 4.7(a), 4.7(b), 4.12(b), 4.13(b) and 4.14(a)(8) of this chapter.

Issued in Washington, D.C. on January 13, 1998 by the Commission.

Catherine D. Dixon,

Assistant Secretary of the Commission.

[FR Doc. 98–1138 Filed 1–21–98; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 291

RIN 1076–AD87

Class III Gaming Procedures

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed rule.

SUMMARY: The Department has concluded that it has the authority to prescribe procedures permitting Class III gaming when a State interposes its immunity from suit by an Indian Tribe. The proposed rule announces the Department's determination that the Secretary may promulgate Class III gaming procedures under certain specified circumstances. It also sets forth the process and standards pursuant to which any procedures would be adopted.

DATES: Written comments must be submitted on or before April 22, 1998 to be considered.

ADDRESSES: Mail comments to Paula L. Hart, Indian Gaming Management Staff, Bureau of Indian Affairs (BIA), Department of the Interior, MS 2070–MIB, 1849 C Street, NW, Washington, DC 20240. Comments may be hand-delivered to the same address from 9:00 a.m. to 4:00 p.m. Monday through Friday or sent by facsimile to (202) 273–3153. Comments will be made available for public inspection at this address from 9:00 a.m. to 4:00 p.m. Monday through Friday beginning approximately two weeks after publication of the proposed rule.

FOR FURTHER INFORMATION CONTACT: Paula L. Hart, Indian Gaming Management Staff, Bureau of Indian Affairs, Department of the Interior, MS 2070–MIB, 1849 C Street, NW, Washington, DC 20240, Telephone (202) 219–4066.

SUPPLEMENTARY INFORMATION:

Introduction

Congress enacted the Indian Gaming Regulatory Act (IGRA), 25 U.S.C. 2701–2721, to provide a statutory basis for the operation and regulation of Indian gaming and to protect Indian gaming as a means of generating revenue for tribal governments. Prior to the enactment of IGRA, states generally were precluded from any regulation of gaming on Indian reservations. *See California* v. *Cabazon Band of Mission Indians,* 480 U.S. 202 (1987). IGRA, by offering States an opportunity to participate with Indian Tribes in developing regulations for Indian gaming, ''extends to States a power withheld from them by the Constitution.'' *Seminole Tribe of Florida* v. *State of Florida,* 116 S. Ct. 1114, 1124 (1996).

Since IGRA's passage in 1988, more than 150 compacts in more than 20 States have been successfully negotiated by Tribes and States, and approved by the Secretary. Today, Indian gaming generates significant revenue for Indian Tribes. As required by IGRA, gaming revenues are being devoted primarily to providing essential government services such as roads, schools, and hospitals, as well as economic development.

IGRA divides Indian gaming into three categories. This proposed rule addresses only the conduct of Class III

gaming, which primarily includes slot machines, casino games, banking card games, dog racing, horse racing, and lotteries. 25 U.S.C. 2703(8); 25 CFR § 502.4. Under IGRA, the conduct of ''Class III gaming activities'' is lawful on Indian lands only if such activities (1) are authorized by an ordinance adopted by the governing body of the Tribe and approved by the Chairman of the National Indian Gaming Commission (NIGC), (2) are located in a State that permits such gaming for any purpose by any person, organization, or entity, and (3) are conducted in conformance with a Tribal-State compact. 25 U.S.C. 2710(d)(1)(B). The proposed regulations which follow relate primarily to this third requirement, i.e., the Tribal-State compact.

Under IGRA, a Tribe interested in operating Class III gaming initiates the compacting process by requesting the State to enter into negotiations. 25 U.S.C. 2710(d)(3)(A). Upon receiving such a request, the State is obliged ''to negotiate with the Indian Tribe in good faith to enter into such a compact.'' *Id*. If the State fails to negotiate in good faith, the Tribe may initiate an action against the State in Federal district court. 25 U.S.C. 2710(d)(7)(A)(I). If the court finds that the State has failed to negotiate in good faith, it must order the State and the Tribe to conclude a compact within 60 days. 25 U.S.C. 2710(d)(7)(B)(iii). If the State and Tribe fail to conclude a compact within that period, each side must submit their last best offer to a court-appointed mediator, who selects one of the proposals. 25 U.S.C. 2710(d)(7)(B)(iv). If the State consents to that proposal, it is treated as a Tribal-State compact. 25 U.S.C. 2710(d)(7)(B)(vi). If the State does not consent, the Secretary of the Interior shall prescribe procedures (1) which are consistent with the proposed compact selected by the mediator, the provisions of IGRA, and the relevant provisions of State laws, and (2) under which Class III gaming may be conducted on the Indian lands over which the Indian Tribe has jurisdiction. 25 U.S.C. 2710(d)(7)(B)(vii).

In *Seminole Tribe of Florida* v. *Florida*, the Supreme Court held that a State may assert an Eleventh Amendment immunity defense to avoid a lawsuit brought by a Tribe alleging that the State did not negotiate in good faith. After the *Seminole* decision, some States have signaled their intention to assert immunity to suit in Federal court. Claiming immunity will, if no further action is taken, create an effective State veto over IGRA's dispute resolution system and therefore will stalemate the compacting process. The proposed rulemaking contemplates that the Secretary would prescribe Class III gaming procedures to end the stalemate.

Secretarial Authority to Prescribe Procedures

On May 10, 1996, the BIA published an ''Advance Notice of Proposed Rulemaking'' (hereafter, ANPR) in response to the United States Supreme Court's decision in *Seminole Tribe of Florida* v. *State of Florida*, 116 S. Ct. 1114 (1996). 61 FR 21394 (May 10, 1996). In that ANPR, the Department posed, among others, the question of ''[w]hether and under what circumstances, the Secretary of the Interior is empowered to prescribe 'procedures' for the conduct of Class III gaming when a State interposes an Eleventh Amendment defense to an action pursuant to 25 U.S.C. 2710(d)(7)(B).'' The Secretary of the Interior, in consultation with the Solicitor, has determined that he possesses legal authority to promulgate procedures setting out the terms under which Class III gaming may take place when a State asserts its immunity from suit.

The Secretary's authority arises from the statutory delegation of powers contained in 25 U.S.C. 2710 (d)(7)(B)(vii) of IGRA and 25 U.S.C. 2 and 9. As the Eleventh Circuit Court of Appeals explained, in the case where the Supreme Court ultimately found the States could assert Eleventh amendment immunity:

> We are left with the question as to what procedure is left for an Indian Tribe faced with a State that not only will not negotiate in good faith, but also will not consent to suit. The answer, gleaned from the statute, is simple. One hundred and eighty days after the Tribe first requests negotiations with the State, the Tribe may file suit in district court. If the State pleads an Eleventh Amendment defense, the suit is dismissed, and the Tribe pursuant to 25 U.S.C. § 2710(d)(7)(B)(vii), then may notify the Secretary of the Interior of the Tribe's failure to negotiate a compact with the State. The Secretary may then prescribe regulations governing Class III gaming on the Tribe's lands. This solution conforms with IGRA and serves to achieve Congress' goals, as delineated in §§ 2701–02.

Seminole Tribe of Florida v. *State of Florida*, 11 F.3d 1016, 1029 (11th Cir. 1994) (*dictum*), *aff'd on other grounds*, 116 S.Ct. 1114 (1996).

Although Congress likely did not foresee the States' refusal to participate in the court-ordered mediation process, it plainly authorized the Secretary to permit Class III gaming in the event that the court-supervised process failed to produce a joint compact. The power of an agency to administer a congressional mandate like this one is not restricted to circumstances explicitly described by Congress; the agency's power also extends to circumstances that Congress, for a variety of reasons, may not have anticipated or articulated in the statute. When Congress has not ''directly spoken to the precise question at issue,'' courts ''must sustain the Secretary's approach so long as it is based on a reasonable construction of the statute.'' *Auer* v. *Robbins*, 117 S.Ct. 905, 909 (1997), *quoting Chevron U.S.A., Inc.* v. *Natural Resources Defense Council*, 467 U.S. 837, 842–43 (1984); *Morton* v. *Ruiz*, 415 U.S. 199 (1974); Kenneth Culp Davis & Richard J. Pierce Jr., *Administrative Law Treatise* § 3.3 (3d ed. 1994). As explained in the proposed rule, the Secretary will provide procedures only when a State has successfully asserted its immunity from an Indian Tribe's good faith lawsuit. Moreover, the proposed rule generally mirrors the mediation scheme provided in IGRA to the maximum practicable extent.

Along with the specific authority under section 2701(d)(7)(B)(vii), Congress has delegated to the Executive under 25 U.S.C. 2 and 9 broad authority to issue regulations necessary to manage Indian affairs and carry into effect legislation relating to such affairs. [1] The courts on many occasions have upheld the exercise of this authority. In *Washington* v. *Washington State Commercial Passenger Fishing Vessel Association*, 443 U.S. 658, 691 (1979), for example, the Court noted with approval regulations protective of off-reservation Indian fishing rights. Although there was no explicit delegation of authority to adopt fishing regulations in the Treaty reserving the right, the Supreme Court recognized that the Secretary's ''general Indian powers'' embodied in 25 U.S.C. 2 and 9 gave him the authority to adopt regulations over Indian affairs. *See also United States* v. *Eberhardt*, 789 F.2d 1354, 1360–61 (9th Cir. 1986); *Parravano* v. *Masten*, 70 F.3d 539 (9th Cir. 1995), *cert. denied*, __ U.S. __, 116 S. Ct. 2546 (1996); *United States* v. *Michigan*, 623 F.2d 448, 450 (6th Cir. 1980); *James* v. *U.S. Dep't. of Health and Human Services*, 824 F.2d 1132, 1137 (D.C. Cir. 1987). Such cases fully support the exercise of Secretarial

[1] ''The Commissioner of Indian Affairs shall, under the direction of the Secretary of the Interior, and agreeably to such regulations as the President may prescribe, have the management of all Indian affairs and all matters arising out of Indian relations.'' 25 U.S.C. 2.'' The President may prescribe such regulations as he may think fit for carrying into effect the various provisions of any act relating to Indian affairs, and for the settlement of the accounts of Indian affairs.'' 25 U.S.C. 9; *see also* 43 U.S.C. 1457 (charging Secretary of Interior with administration of ''public business'' related to Indians).

authority to promulgate regulations governing and protecting Indian rights, such as the right to engage in gaming activities, that are rooted in Federal law.

In comments on the ANPR, some States have suggested that the Supreme Court's decision in *Organized Village of Kake* v. *Egan,* 369 U.S. 60 (1962), may preclude the Secretary's exercise of rule-making authority for gaming procedures. See Comments of Florida, et al., *supra,* at 9. In *Organized Village of Kake,* the Secretary purported to authorize off-reservation fisheries in Alaska pursuant to his general authority over Indian affairs and the White Act, 48 U.S.C. 221–228. However, no treaty, executive order, statute, or Federal common law established tribal fishing rights. Accordingly, the Court struck down the Secretary's regulations authorizing the use of fish traps in violation of State law because the Tribe had *no* ''fishing rights derived from Federal laws.'' Id. at 76. *See McClanahan* v. *Arizona State Tax Com'n.,* 411 U.S. 164, 176 n.15 (1973) (distinguishing *Organized Village of Kake* as limited to situations involving non-reservation Indians without Federally-protected rights); see also Clinton, et al., *American Indian Law* at 593 (3d ed. 1991).

Here, in contrast, the Tribes' Federal common law right to engage in gaming activities free of most State regulation on Indian land was recognized in *California* v. *Cabazon Band of Mission Indians,* 480 U.S. 202 (1987) and pre-existed adoption of IGRA. Because tribal gaming rights are rooted in Federal law, 25 U.S.C. 2 and 9 give the Secretary the authority to adopt regulations to carry into effect those rights.

The Ninth Circuit, in a case vacated after the Supreme Court's decision in *Seminole,* expressed concern that the Secretary would undermine congressional intent if he imposed regulations for Class III gaming when a State asserted immunity. *Spokane Tribe of Indians* v. *Washington,* 28 F.3d. 991, 997 (9th Cir. 1994) (*dictum*), vacated and remanded, ____ U.S. ____, 116 S. Ct. 1410 (1996). The court relied on the provision in IGRA that the Secretary act only after a State is provided the opportunity to participate in negotiations and mediation.[2]

In our view, Congress had at least three purposes in enacting IGRA: to recognize and give a statutory structure for gaming as a means of promoting tribal economic development, self sufficiency and strong tribal government; to provide a basis for regulating Indian gaming to ensure that it is conducted fairly and that the Indian Tribe is the primary beneficiary of the activity; and finally, to afford an opportunity for States to participate in the establishment and conduct of Indian gaming through Tribal-State compacts, but also to make a Federal backstop available should a consensual Tribal-State compact not be reached. If the Secretary were unable to issue procedures to permit gaming when a State refused to submit to a Federal court the issue of whether it was bargaining in good faith, that State would effectively be awarded a veto over all Class III Indian gaming within its borders. Congress did not contemplate or authorize such a State veto in IGRA.

The proposed rules are faithful to Congress' intent that States be able to participate in the establishment and regulation of Class III gaming, through negotiation and mediation, and that Indian gaming will be protected from the influence of organized crime. Thus, contrary to the concern expressed by the Ninth Circuit, the approach of the proposed regulations is not to undermine congressional intent; instead, the regulations provide the tools necessary to fulfill congressional intent in the wake of *Seminole.*[3]

Faced with the ''problem of defining the bounds of its regulatory authority, an agency may appropriately look to the * * * underlying policies of its statutory grants of authority.'' *United States* v. *Riverside Bayview Homes, Inc.,* 474 U.S. 121, 132 (1985). In this case, IGRA's underlying policies strongly support the issuance of the proposed rule. In addition, it is a well-settled principle of Indian law that Indian affairs statutes be construed where possible to benefit Tribes, not in a way that results in the backhanded deprivation of tribal rights. *Bryan* v. *Itasca County,* 426 U.S. 373, 379 (1976); C. Wilkinson, *American Indians, Time, and the Law* 46–52 (1987). For these reasons, the Secretary concludes that he has the authority to prescribe the following rule.

The Department invites comment on the legal analysis set forth above and in the other sections of this document.

Summary of the Proposed Rule

The proposed rule tracks IGRA's negotiation and mediation process, adjusted only to the extent necessary to reflect the unavailability of tribal access to Federal court where a State refuses to waive sovereign immunity. The proposed rule applies only where a Tribe asserts that a State is not negotiating in good faith, files suit against the State in Federal court in accordance with IGRA, but cannot proceed in Federal court because the State refuses to waive its sovereign immunity from suit. In cases in which a State chooses not to assert a sovereign immunity defense, these proposed rules would not apply. Instead, the negotiation and mediation process set forth in Section 2710(d)(7) of IGRA would continue under the supervision of the court.

In those cases in which a State interposes a sovereign immunity defense to a tribal lawsuit in Federal court, the proposed regulations establish a process for obtaining State participation in the compacting process, prior to the Secretary's identification of procedures. It is important to emphasize that, under the proposed rules, the Secretary will not adopt procedures in any specific situation unless he first determines that the State has failed to bargain in good faith. The Department expects that, in most cases, this will require addressing the applicable scope of gaming under State law and IGRA. Scope of gaming is discussed further below.

The steps set forth in the proposed rule include:

1. Following dismissal on grounds of sovereign immunity of a Tribe's suit brought pursuant to 25 U.S.C. 2710(d)(7) against a State, the Tribe would have the opportunity to submit a request to the Department to establish gaming procedures. The procedures submitted by the Tribe would be required to address all of the issues identified in the proposed rule, including the scope of the gaming activities being requested by the Tribe; the Tribe's position regarding whether the State has negotiated with the Tribe in good faith within the meaning of IGRA; and detailed mechanisms for regulation of the gaming, including assurances that games will be conducted fairly and that the financial integrity of the entire operation will be safeguarded. Because the good faith bargaining issue often turns on the question of the appropriate scope of gaming, the Tribe will be asked to provide a legal analysis

[2] The Supreme Court in *Seminole* did not resolve the Ninth and Eleventh Circuits' conflicting *dicta,* stating, ''[w]e do not consider, and express no opinion upon, that portion of the decision below that provides a substitute remedy for a Tribe bringing suit. *See* 11 F.3d 1016, 1029 (C.A. 11)(case below).'' 116 S. Ct. at 1133 n.18.

[3] Twenty-two States filed joint comments on the ANPR indicating their ''view that the Court in *Seminole* did not invalidate any portion of IGRA, but that it left the Act intact. The decision merely revitalized a jurisdictional defense of the States. If a State consents to suit in Federal court, then the complete remedial scheme envisioned by Congress can be played out.'' Comments of Florida, et al., at 8 (June 28, 1996). We agree that no part of the statute need be invalidated, or ''severed'' from the statute. We note that IGRA does, however, contain a severability provision, 25 U.S.C. 2721. *See generally Alaska Airlines* v. *Brock,* 480 U.S. 678, 686 (1987).

supporting the proposed scope of gaming in view of State prohibitions and other policies on specific types of gaming.

2. The Department would notify the Tribe within 15 days that it has received the proposal and whether it is complete. Within 30 days the Department will notify the Tribe whether it is eligible for procedures. The Department will not make a determination of the ''good faith'' issue at this point.

3. Following issuance of a notice of completeness and eligibility, the Department will notify the State of the Tribe's request for the issuance of procedures, and solicit the State's comments on the Tribe's proposed procedures, including any comments on the proposed scope of gaming. The State also will be asked to comment on the Tribe's statements regarding whether the State has negotiated in good faith within the meaning of IGRA, particularly on the scope of gaming issue. The State will also be invited to submit alternative proposed procedures. The State will have 60 days to respond.

4. Based on its review of the submissions of the Tribe and the State, the Department shall make a determination whether the State is negotiating in good faith with the Tribe. If the Department determines that the State is not negotiating in good faith, and the State has not submitted an alternative proposal, the Department will advise the State and Indian Tribe of: (a) its approval of the Tribe's proposal; (b) its rejection of the Tribe's proposal because of its failure to meet the substantive standards in the regulation, § 291.8; or (c) its convening of an informal conference with the State and Tribe within 30 days for the purpose of resolving any areas of disagreement.

5. Alternatively, if the State submits objections to the Indian Tribe's proposal *and* offers alternative proposed procedures, the Tribe must file objections to the State's proposal within 60 days. If the Tribe does not submit objections to the proposed procedures, the Secretary will adopt the State's proposed procedures unless they do not meet the substantive standards in the regulations, § 291.8.

6. If the Indian Tribe objects to the State's proposed procedures, the Secretary will appoint a mediator who will receive ''last best offers'' from the State and Tribe. The mediator must then submit to the Secretary the proposed procedures that best comport with applicable Federal and State law. Within 60 days of receipt of the mediator's recommendation, the Secretary must notify the State and Tribe of his decision to approve or disapprove the procedures submitted by the mediator, or prescribe such procedures as he determines appropriate that are consistent with State law and the provisions of IGRA.

The Johnson Act and IGRA's Criminal Provision

The Secretary has also considered the application of criminal prohibitions found in IGRA and the Johnson Act and has concluded that those prohibitions would not apply upon the adoption of ''procedures'' pursuant to these proposed regulations. The Johnson Act and section 23 of IGRA make most Class III gaming in Indian country illegal unless conducted pursuant to an approved compact that is ''in effect.''[4] In comments on the ANPR, some States argue that these criminal statutes are applicable unless there is a compact that: (1) has been voluntarily entered into by a State and an Indian Tribe, 25 U.S.C. 2710(d)(8)(A); and (2) is ''in effect'' within the meaning of IGRA by virtue of having been approved by the Secretary and published in the **Federal Register**. 25 U.S.C. 2710(d)(3)(B). See Comments of Arizona at 18–20; Comments of Florida at 10.

That reading of IGRA is inconsistent with the statute when read as a whole, and must therefore be rejected. The Supreme Court has long recognized that: ''[i]t is a fundamental canon of statutory construction that the words of a statute must be read in their context and with a view to their place in the overall statutory scheme.'' *Davis* v. *Michigan Dept. of Treasury,* 489 U.S. 803, 809 (1989); *see also King* v. *St. Vincent's Hospital,* 502 U.S. 215, 221 n.10 (1991) (''in construing statute [sic] court should adopt sense of words which best harmonizes with context and promotes policy and objectives of legislature,'' paraphrasing *United States* v. *Hartwell,* 73 U.S. (6 Wall.) 385, 398 (1868)). Most importantly, statutes must be read to give effect to every provision. *Rake* v. *Wade,* 508 U.S. 464, 471 (1994).

The States' construction would render the section of IGRA authorizing the Secretary to establish ''procedures'' for Class III gaming meaningless, because thus woodenly read, no compact can be ''in effect'' absent a State's agreement to it. See 25 U.S.C. 2710(d)(3)(B) (compact entered into by Tribe and State ''shall take effect only when notice of approval of such compact has been published by the Secretary in the **Federal Register**''). Thus, even if the Supreme Court had not decided *Seminole* as it did, under Florida and Arizona's reading of the statute, Class III gaming would remain unlawful even if procedures were set in place by the Secretary after completion of the judicially-supervised mediation process.

Put another way, if the statute is read with such extreme literalness it has a technical flaw. It provides for Secretarial procedures in the event that States and Indian Tribes cannot agree to a compact. If they can agree, such a compact becomes ''in effect'' upon approval by Secretary. 25 U.S.C. 2710(d)(3)(B). Where a State does not assert immunity from suit and procedures ultimately are adopted by the Secretary without State consent, IGRA does not call this a compact ''in effect.'' Compare 25 U.S.C. 2710(d)(7)(B)(vii), with 25 U.S.C. 2710(d)(3)(B). Yet there is nothing else in the statute or its legislative history that even hints that the Johnson Act or § 23 of IGRA would criminalize Class III Indian gaming in such circumstances. If Florida and Arizona's construction were accepted, it would negate the entire part of IGRA that calls for mediation and Secretarial procedures.

To avoid such an absurd result, the statute must be read to mean that all Secretarial-sanctioned gaming is exempt from the provisions of the Johnson Act and section 23 of IGRA. The ''procedures'' adopted by the Secretary—whether pursuant to the judicially-supervised mode prescribed by IGRA or pursuant to this rulemaking—are properly viewed as a full substitute for the compact that would be ''in effect'' if a voluntary agreement had been reached, and thus qualify for the exemption to the criminal prohibitions on gaming.

Scope of Gaming

The most frequently contested issue among Tribes and States relates to the ''scope of gaming'' permitted under State law, for this is important in determining whether particular games are properly the subject of negotiation between a Tribe and a State. In the context of this proposed rulemaking, the issue bears directly upon whether a State is bargaining in good faith with a Tribe and whether a Tribe's requested procedures include games lawful under IGRA. 25 U.S.C. 2710(d)(1)(B). In evaluating the permissible ''scope of gaming'' under the various States'' laws, the Department will apply the interpretation set forth as the position of the United States on the scope of gaming issue in its *amicus curiae* brief in the Supreme Court in *Rumsey Indian Rancheria of Wintun Indians* v. *Wilson,* 64 F.3d 1250 (9th Cir. 1995), *as*

[4] The Johnson Act makes it ''unlawful to manufacture, recondition, repair, sell, transport, possess, or use any gambling device * * * within Indian country as defined in 1151 of Title 18[.]'' 15 U.S.C. 1175. It does not apply when there is a Tribal-State compact ''in effect.'' 25 U.S.C. 2710(d)(6). Section 23 of IGRA provides that:

(a) Subject to subsection (c), for purposes of Federal law, all State laws pertaining to the licensing, regulation, or prohibition of gambling, including but not limited to criminal sanctions applicable thereto, shall apply in Indian country in the same manner and to the same extent as such laws apply elsewhere in the State.

* * * * *

For the purpose of this section, the term gambling does not include:

* * * * *

(2) Class III gaming conducted under a Tribal-State compact approved under 11(d)(8) of the IGRA *that is in effect. codified* at 18 U.S.C. 1166 (emphasis added).

modified on denial of petition for rehearing, 99 F.3d 321 (9th Cir. 1996), *cert. denied, sub nom. Sycuan Band of Mission Indians* v. *Wilson,* No. 96–1059, 65 U.S.L.W. 3855 (June 24, 1997). Copies of the brief are available to any reviewer upon request.

As a threshold matter, the Secretary would disapprove proposals when ''contemplated gaming activities are not permitted in the State for any purpose by any person, organization, or entity.'' Proposed 25 CFR § 291.8(b)(3), *infra.* This conclusion is based on 25 U.S.C. 2710(d)(1)(B), which states that ''Class III gaming activities shall be lawful on Indian lands only if such activities are * * * located in a State that permits such gaming for any purpose by any person, organization or entity.'' IGRA thus makes it unlawful for Tribes to operate particular Class III games that State law completely and affirmatively prohibits. Courts have determined that a State therefore has no duty to negotiate with respect to such games. *See Rumsey Indian Rancheria, supra.* In other words, if a State prohibits an entire class of traditional games, it need not negotiate over the particular games within that category. Consequently, such gaming would not be permitted under Secretarial procedures.

Our interpretation of the scope of gaming issues is adopted from the United States' amicus brief filed in the Supreme Court in *Rumsey Indian Rancheria, supra:*

> In some circumstances, a question may arise concerning whether a State law prohibits a distinct form of gaming or instead regulates the manner in which a permitted form of gaming may be played. Several hypothetical examples may illustrate the point. If State law prohibits five-card stud poker but permits seven-card draw poker (or prohibits parimutuel wagering on dog racing, but not on horse racing), a question could arise as to whether that State law prohibits a distinct form of gaming known as ''five card stud poker'' (''or dog racing''), or instead regulates the manner in which the permitted form of gaming known as ''poker'' (''or animal racing'') may be conducted. If characterized in the former way, the State would have to negotiate concerning only seven-card draw poker (or horse racing); if characterized in the latter way, the State would have to negotiate over all poker games (or all animal racing). The relevant question in such a case would be whether, in light of traditional understandings and the text and legislative history of IGRA, the State has reasonably characterized the relevant State laws as completely prohibiting a distinct form of gaming. If the State has not reasonably so characterized its laws, it would have a duty to negotiate with respect to the gaming.

United States' Brief at 15.

It is impractical for the Department to attempt to evaluate, in advance of a tribal request, the permissible scope of gaming in each State. For that reason the proposed rule requires a Tribe to submit its own analysis along with its request for Secretarial procedures, and goes on to invite the views and active participation of the affected State with respect to the applicable scope of gaming under any Secretarial procedures.

Monitoring

Many voluntarily negotiated compacts include a monitoring role for the affected State. In these compacts States often assist in background checks on key casino personnel, and/or monitor tribal financial statements. Tribes may make certain financial information available to States to ensure that applicable regulatory requirements have been satisfied. Because of the importance of this monitoring function, the proposed regulations invite State participation in the promulgation of Secretarial procedures, notwithstanding a State's assertion of immunity from suit. If a State declines to participate in such an activity, the Department believes steps ought to be taken to ensure that independent monitoring and enforcement exists. The proposed rule requires that the Tribe provide in its procedures for monitoring and enforcement by an independent and autonomous tribal regulatory commission. Further, the Department seeks comments on whether the NIGC or some other entity should perform monitoring and enforcement functions, and, if so, who should bear the cost of such functions.

Publication of this proposed rule by the Department provides the public an opportunity to participate in the rulemaking process. Interested persons may submit written comments to the location identified in the **ADDRESSES** section of this proposed rule.

Executive Order 12988

The Department has certified to the Office of Management and Budget (OMB) that these proposed regulations meet the applicable standards provided in Sections (3)(a) and 3(b)(2) of Executive Order 12988.

Executive Order 12866

This is a significant rule under Executive Order 12866 and has been reviewed by OMB.

Regulatory Flexibility Act

We do not believe that this proposed rule will have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* The Regulatory Flexibility Act of 1980 requires preparation of flexibility analyses for rules that will have a significant effect on a substantial number of small entities, which include small businesses, organizations or governmental jurisdictions. At this time, we do not know whether any Secretarial procedures, authorized by this proposed rule, will need to be adopted. We also do not know whether the adoption of procedures in a given case will have a significant impact on small entities as defined by the Act. If procedures are proposed pursuant to this rule, States (and through the States, local jurisdictions and small entities) will be permitted to comment on a given proposal, and any concerns may be taken into account in Secretarial procedures.

It is our preliminary view that Indian tribes are not small entities within the meaning of the Regulatory Flexibility Act. The statutory definition specifically enumerates several kinds of governmental entities, but does not include Indian tribes. 5 U.S.C. 601(5). This indicates that tribes should not be considered small entities. We invite comment on this issue.

Executive Order 12630

The Department has determined that this proposed rule does not have significant ''takings'' implications. The proposed rule does not pertain to ''taking'' of private property interests, nor does it impact private property.

Executive Order 12612

The Department has determined that this proposed rule does not have significant Federalism effects.

As explained above, the Secretary has determined that he has the statutory authority to adopt procedures to permit Indian gaming in appropriate circumstances. Secretarial authority was expressly provided in IGRA with respect to the judicially-supervised mediation scheme. It would be exercised under the proposed rules in a manner consistent with the statutory directive and congressional intent. The proposed rule provides the opportunity for States to voluntarily participate in a mediation process under the auspices of the Secretary of the Interior. As the Supreme Court noted in *Seminole,* Congress may, under the Constitution, choose to withhold from States any authority over Indian gaming. Because under the proposed rules the Secretary would be tracking the scheme set forth by Congress, and because the proposed rule would afford the States as much

opportunity to participate as where it does not claim immunity from suit, we believe the proposed rule has no significant Federalism effects.

NEPA Statement

The Department has determined that this proposed rule does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement is required pursuant to the National Environmental Policy Act of 1969.

Paperwork Reduction Act of 1995

Sections 291.4, 291.10, 291.12, and 291.15 contain information collection requirements. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the Department has submitted a copy of these sections to the Office of Management and Budget (OMB) for its review.

Collection of Information: When a Tribe and State do not successfully negotiate a Tribal-State compact, the Tribe will be required to collect information to document the negotiation process, and prepare proposed procedures for submission to the Secretary. The information requested will be unique for each Tribe and may be changed when necessary to fit the needs of the Tribe.

All information is to be collected upon the submission of a request by a Tribe for Class III gaming procedures. The annual reporting and record keeping burden for the collection of information is estimated to average 1,000 hours for each response and we estimate there will be approximately 25 respondents. The collection will include time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the information. The total annual burden is estimated to be 25,000 hours.

Organizations and individuals desiring to submit comments on the information collection requirement should direct them to the Office of Information and Regulatory Affairs, OMB, Room 10202, New Executive Office Building, Washington, DC 20503, Attn: Desk Officer for the Department of the Interior.

The Department considers comments by the public on this proposed collection of information in:

Evaluating whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility;

Evaluating the accuracy of the Department's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

Enhancing the quality, usefulness, and clarity of the information to be collected; and

Minimizing the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other collection techniques or other forms of information technology.

OMB is required to make a decision between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to the OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment to the BIA on the proposed regulations.

Unfunded Mandates Act of 1995

This regulation imposes no unfunded mandates on any governmental or private entity and is in compliance with the provisions of the Unfunded Mandates Act of 1995.

Drafting Information

The primary author of this proposed rule is George Skibine, Acting Deputy Associate Solicitor, Division of Indian Affairs, Office of the Solicitor.

List of Subjects in 25 CFR Part 291

Indians—Gaming.

For the reasons given in the preamble, the Department of the Interior proposes to establish a new Part 291 of Title 25, Chapter 1 of the Code of Federal Regulations as set forth below.

PART 291—CLASS III GAMING PROCEDURES

Sec.

291.1 Purpose and scope.
291.2 Definitions.
291.3 When may an Indian Tribe ask the Secretary to issue Class III gaming procedures?
291.4 What must a proposal requesting Class III gaming procedures contain?
291.5 Where must the proposal requesting Class III gaming procedures be filed?
291.6 What must the Secretary do upon receiving a proposal?
291.7 What must the Secretary do if it has been determined that the Indian Tribe is eligible to request Class III gaming procedures?
291.8 What must the Secretary do at the expiration of the 60-day comment period if the State has not submitted an alternative proposal?
291.9 What must the Secretary do at the end of the 60-day comment period if the State offers an alternative proposal for Class III gaming procedures?
291.10 What must the Indian Tribe do when it receives the State's alternative proposal Class III gaming procedures?
291.11 What must the Secretary do if the Indian Tribe files timely objections to the State's alternative proposal?
291.12 What is the role of the mediator appointed by the Secretary?
291.13 What must the Secretary do upon receiving the proposal selected by the mediator?
291.14 When do Class III gaming procedures for an Indian Tribe become effective?
291.15 How can Class III gaming procedures issued by the Secretary be amended?

Authority: 5 U.S.C. 301; 25 U.S.C. 2,9, 2710.

§ 291.1 Purpose and scope.

The regulations in this part establish procedures that the Secretary of the Interior will use to promulgate rules for the conduct of Class III Indian gaming when:

(a) A State and an Indian Tribe are unable voluntarily to agree to a compact; and

(b) The State has asserted its immunity from suit brought by an Indian Tribe under 25 U.S.C. 2710(d)(7)(B).

§ 291.2 Definitions.

All terms have the same meaning as set forth in the definitional section of IGRA, 25 U.S.C. 2703(1)–(10).

§ 291.3 When may an Indian Tribe ask the Secretary to issue Class III gaming procedures?

An Indian Tribe may ask the Secretary to issue Class III gaming procedures when the following steps have taken place:

(a) The Indian Tribe submitted a written request to the State to enter into negotiations to establish a Tribal-State compact governing the conduct of Class III gaming activities;

(b) The State and the Indian Tribe failed to negotiate a compact 180 days after the State received the Indian Tribe's request;

(c) The Indian Tribe initiated a cause of action in Federal district court against the State alleging that the State did not respond, or did not respond in good faith, to the request of the Indian Tribe to negotiate such a compact;

(d) The State raised an Eleventh Amendment defense to the tribal action; and

(e) The Federal district court dismissed the action because of lack of jurisdiction due to the State's sovereign

immunity under the Eleventh Amendment.

§ 291.4 What must a proposal requesting Class III gaming procedures contain?

A proposal requesting Class III gaming procedures must include the following information:

(a) The full name, address, and telephone number of the Indian Tribe submitting the proposal;

(b) A copy of the authorizing resolution from the Indian Tribe submitting the proposal;

(c) A copy of the Indian Tribe's gaming ordinance or resolution approved by the NIGC in accordance with 25 U.S.C. 2710;

(d) A copy of the Indian Tribe's organic documents;

(e) A copy of the Indian Tribe's written request to the State to enter into compact negotiations, along with the Indian Tribe's proposed compact, if any;

(f) A copy of the State's response to the tribal request and/or proposed compact, if any;

(g) A copy of court proceedings in the litigation with the State in Federal district court on compact negotiations, including a copy of the order dismissing the lawsuit;

(h) The Indian Tribe's factual and legal authority for the scope of gaming specified in paragraph (j)(13) of this section;

(i) A regulatory scheme for Federal (or State, if any) oversight role in monitoring and enforcing compliance; and

(j) Proposed procedures under which the Indian Tribe will conduct Class III gaming activities, including:

(1) An accounting system maintained in accordance with American Institute of Certified Public Accountants (AICPA) Standards for Audits of Casinos, including maintenance of books and records in accordance with Generally Accepted Accounting Principles (GAAP), and any applicable NIGC regulations;

(2) A reporting system for the payment of taxes and fees in a timely manner and in compliance with Internal Revenue Code and Bank Secrecy Act requirements;

(3) Preparation of financial statements covering all financial activities of the Indian Tribe's gaming operations;

(4) Internal control standards designed to ensure fiscal integrity of gaming operations;

(5) Provisions for records retention, maintenance, and accessibility;

(6) Conduct of games, including patron requirements, posting of game rules, and hours of operation;

(7) Procedures to protect the integrity of the rules for playing games;

(8) Rules governing employees of the gaming operation, including code of conduct, age requirements, conflict of interest provisions, licensing requirements, and background investigations of all management officials and key employees, vendors, lessors, or suppliers of gaming materials, equipment or supplies of any kind in excess of $5,000 per year, that comply with IGRA requirements, NIGC regulations, and applicable tribal gaming laws;

(9) Policies and procedures that protect the health and safety of patrons and employees and that address insurance and liability issues, as well as safety systems for fire and emergency services at all gaming locations;

(10) Surveillance procedures and security personnel and systems capable of monitoring all gaming activities, including the conduct of games, cashiers' cages, change booths, count rooms, movement of cash and chips, entrances and exits of gaming facilities, and other critical areas of any gaming facility;

(11) An administrative process to resolve disputes between the gaming establishment and employees or patrons, including a process to protect the rights of individuals injured on gaming premises by reason of negligence in the operation of the facility;

(12) Hearing procedures for licensing purposes;

(13) A list of gaming activities proposed to be offered by the Indian Tribe at its gaming facilities;

(14) A description of the location of proposed gaming facilities;

(15) A copy of the Indian Tribe's liquor ordinance approved by the Secretary, if any;

(16) Provisions for an autonomous tribal regulatory gaming commission, independent of gaming management;

(17) Provisions for enforcement and investigatory mechanisms, including the imposition of sanctions, monetary penalties, closure, and an administrative appeal process relating to enforcement and investigatory actions; and

(18) Any other provisions deemed necessary by the Indian Tribe.

§ 291.5 Where must the proposal requesting Class III gaming procedures be filed?

Any proposal requesting Class III gaming procedures must be filed with the Director, Indian Gaming Management Staff, Bureau of Indian Affairs, U.S. Department of the Interior, MS 2070–MIB, 1849 C Street, NW, Washington, DC 20240.

§ 291.6 What must the Secretary do upon receiving a proposal?

Upon receipt of a proposal requesting Class III gaming procedures, the Secretary must:

(a) Within 15 days, notify the Indian Tribe in writing that the proposal has been received, and whether the proposal meets the requirements of § 291.4; and

(b) Within 30 days of receiving a complete proposal, notify the Indian Tribe in writing whether the Indian Tribe meets the eligibility requirements in § 291.3. The Secretary's eligibility determination is final for the Department.

§ 291.7 What must the Secretary do if it has been determined that the Indian Tribe is eligible to request Class III gaming procedures?

(a) If the Secretary determines that the Indian Tribe is eligible to request Class III gaming procedures and that the Indian Tribe's proposal is complete, the Secretary must submit the Indian Tribe's proposal to the Governor and the Attorney General of the State where the gaming is proposed.

(b) The Governor and Attorney General will have 60 days to comment on:

(1) Whether the State is in agreement with the Indian Tribe's proposal;

(2) Whether the State believes it has negotiated in good faith with the Indian Tribe under 25 U.S.C. 2710(d)(3)(A);

(3) Whether the proposal is consistent with relevant provisions of the laws of the State; and

(4) Whether contemplated gaming activities are permitted in the State for any purposes, by any person, organization, or entity.

(c) The Secretary will also invite the State's Governor and Attorney General to submit an alternative proposal to the Indian Tribe's proposed Class III gaming procedures.

§ 291.8 What must the Secretary do at the expiration of the 60-day comment period if the State has not submitted an alternative proposal?

(a) Upon expiration of the 60-day comment period specified in § 291.7, if the State has not submitted an alternative proposal, the Secretary must review the Indian Tribe's proposal to determine:

(1) Whether all requirements of § 291.4 are adequately addressed;

(2) Whether Class III gaming activities will be conducted on Indian lands over which the Indian Tribe has jurisdiction;

(3) Whether contemplated gaming activities are permitted in the State for any purposes by any person, organization, or entity;

(4) Whether the proposal is consistent with relevant provisions of the laws of the State;

(5) Whether the proposal is consistent with the trust obligations of the United States to the Indian Tribe;

(6) Whether the proposal is consistent with all applicable provisions of the IGRA;

(7) Whether the proposal is consistent with provisions of other applicable Federal laws; and

(8) Whether the State has negotiated in good faith.

(b) Within 60 days of the expiration of the 60-day comment period in § 291.7, the Secretary must notify the Indian Tribe, the Governor, and the Attorney General of the State in writing that he/she has:

(1) Approved the proposal if the Secretary determines that there are no objections to the Indian Tribe's proposal;

(2) Disapproved the proposal if it does not meet the standards in paragraph (a) of this section; or

(3) Identified unresolved issues and areas of disagreements in the proposal, and that the Indian Tribe, the Governor, and the Attorney General are invited to participate in an informal conference to resolve identified unresolved issues and areas of disagreement.

(c) Within 30 days of the informal conference, the Secretary must prepare and mail to the Indian Tribe, the Governor, and the Attorney General:

(1) A written report that summarizes the results of the informal conference; and

(2) A final decision either setting forth the Secretary's proposed Class III gaming procedures for the Indian Tribe, or disapproving the proposal for any of the reasons in paragraph (a) of this section.

§ 291.9 What must the Secretary do at the end of the 60-day comment period if the State offers an alternative proposal for Class III gaming procedures?

Within 7 days of receiving the State's alternative proposal, the Secretary must submit the State's alternative proposal to the Indian Tribe for a 60-day comment period.

§ 291.10 What must the Indian Tribe do when it receives the State's alternative proposal for Class III gaming procedures?

(a) If the Indian Tribe objects to the State's alternative proposal, it may, within 60 days of receiving the alternative proposal, notify the Secretary in writing of its objections.

(b) If the Indian Tribe does not file written objections within 60 days of receiving of the State's alternative proposal, the Secretary must, within 60 days of the expiration of the Indian Tribe's comment period in § 291.9, notify the Indian Tribe, the Governor, and the Attorney General, in writing of his/her decision to either:

(1) Approve the State's alternative proposal for Class III gaming procedures; or

(2) Disapprove the State's alternative proposal for any of the reasons in § 291.13(b).

§ 291.11 What must the Secretary do if the Indian Tribe files timely objections to the State's alternative proposal?

If the Indian Tribe files timely objections to the State's alternative proposal, the Secretary must appoint a mediator who must convene a process to resolve differences between the two proposals.

§ 291.12 What is the role of the mediator appointed by the Secretary?

(a) The mediator must ask the Indian Tribe and the State to submit their last best proposal for Class III gaming procedures.

(b) After giving the Indian Tribe and the State an opportunity to be heard and present information supporting their respective positions, the mediator must select from the two proposals the one that best comports with the terms of the IGRA and any other applicable Federal law. The mediator must submit the proposal selected to the Indian Tribe, the State, and the Secretary.

§ 291.13 What must the Secretary do upon receiving the proposal selected by the mediator?

Within 60 days of receiving the proposal selected by the mediator, the Secretary must do one of the following:

(a) Notify the Indian Tribe, the Governor and the Attorney General in writing of his/her decision to approve the proposal for Class III gaming procedures selected by the mediator.

(b) Notify the Indian Tribe, the Governor and the Attorney General in writing of his/her decision to disapprove the proposal selected by the mediator for any of the following reasons:

(1) The requirements of § 291.4 are not adequately addressed;

(2) Gaming activities would not be conducted on Indian lands over which the Indian Tribe has jurisdiction;

(3) Contemplated gaming activities are not permitted in the State for any purpose by any person, organization, or entity;

(4) The proposal is not consistent with relevant provisions of the laws of the State;

(5) The proposal is not consistent with the trust obligations of the United States to the Indian Tribe;

(6) The proposal is not consistent with applicable provisions of the IGRA; or

(7) The proposal is not consistent with provisions of other applicable Federal laws.

(c) If the Secretary rejects the mediator's proposal under paragraph (b) of this section, he may prescribe appropriate procedures under which Class III gaming may take place consistent with the mediator's selected compact, the provisions of IGRA and the relevant provisions of the laws of the State.

§ 291.14 When do Class III gaming procedures for an Indian Tribe become effective?

Upon approval of Class III gaming procedures for the Indian Tribe under either § 291.8(b), § 291.8(c), § 291.10(b)(1), or § 291.13(a), the Indian Tribe shall have 90 days in which to approve and execute the Secretarial procedures and forward its approval and execution to the Secretary, who will publish notice of their approval in the **Federal Register**. The procedures take effect upon their publication in the **Federal Register**.

§ 291.15 How can Class III gaming procedures approved by the Secretary be amended?

An Indian Tribe may ask the Secretary to amend approved Class III gaming procedures by submitting an amendment proposal to the Secretary. The Secretary must review the proposal by following the approval process for initial tribal proposals, except that he/she may waive the requirements of § 291.4 to the extent they do not apply to the amendment request.

Dated: December 8, 1997.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 98–1409 Filed 1–22–98; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–110965–97]

RIN 1545–AV47

Obligations of States and Political Subdivisions

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Partial withdrawal of notice of proposed rulemaking; notice of proposed rulemaking by cross-reference to temporary regulations; and notice of public hearing.

SUMMARY: This document withdraws portions of the notice of proposed rulemaking published in the **Federal Register** (59 FR 67658) on December 30, 1994. In the Rules and Regulations section of this issue of the **Federal Register**, the IRS is issuing temporary regulations that provide guidance to state and local governments that issue bonds for output facilities and to certain nongovernmental persons that are engaged in the local furnishing of electric energy or gas using facilities financed with state or local bonds. These proposed regulations reflect changes made by the Tax Reform Act of 1986 and the Small Business Job Protection Act of 1996. The text of those temporary regulations also serves as the text of these proposed regulations. This document provides a notice of public hearing on these proposed regulations.

DATES: Written comments must be received by April 22, 1998. Outlines of topics to be discussed at the public hearing scheduled for April 28, 1998, at 10:00 a.m. must be received by April 7, 1998.

ADDRESSES: Send Submissions to: CC:DOM:CORP:R (REG–110965–97), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:R (REG–110965–97), 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 on 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. The public hearing will be held in the Auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Allan B. Seller, 202–622–3980; concerning submissions and the hearing, Michael L. Slaughter, Jr., 202–622–7190 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

Proposed regulations §§ 1.141–7 and 1.141–8, published on December 30, 1994 (59 FR 67658) addressed the application of the private activity bond tests of section 141(b)(2) to output contract for output facilities and the application of the $15 million limitation on output facility financings of section 141(b)(4). These proposed sections are withdrawn. These sections were issued as part of proposed regulations under §§ 1.141–0 through 1.141–16, Definition of Private Activity Bonds, which were finalized in part in TD 8712 published in the **Federal Register** on January 16, 1997.

Sections 1.141–7T, 1.141–8T, 1.141–15T, 1.142(f)(4)–1T, and 1.150–5T published in the Rules and Regulations portion of this issue of the **Federal Register** are issued to provide guidance on certain aspects of the private activity bond restrictions under section 141 of the Internal Revenue Code.

The text of those temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the temporary regulations.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations.

It is hereby certified that these regulations do not have a significant impact on a substantial number of small entities. This certification is based upon the fact that in the years 1987 through 1993 a total of 61 different state or local government issuers of exempt facility bonds issued under section 142(f) for the local furnishing of electric energy or gas filed information returns with the Internal Revenue Service under section 149(e). Further, an election under section 142(f)(4) is in no event required to be filed with the Internal Revenue Service more than once by a person engaged in the local furnishing of electric energy or gas. Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. Chapter 6) is not required. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments that are submitted timely (a signed original and eight (8) copies) to the IRS. All comments will be available for public inspection and copying.

A public hearing has been scheduled for April 28, 1998, at 10:00 a.m. in the Auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW, Washington, DC. Because of access restrictions, visitors will not be admitted beyond the lobby more than 15 minutes before the hearing starts.

The rules of 26 CFR 601.601(a)(3) apply to the hearing.

Persons that wish to present oral comments at the hearing must submit written comments by April 22, 1998 and submit an outline of the topics to be discussed and the time to be devoted to each topic by April 7, 1998.

A period of 10 minutes will be allotted to each person for making comments.

An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal authors of these regulations are Michael G. Bailey and Allan Seller, Office of the Assistant Chief Counsel (Financial Institutions and Products), and Nancy M. Lashnits, formerly of that office. However, other personnel from the IRS and Treasury Department participated in their development.

Partial Withdrawal of Notice of Proposed Rulemaking

Under the authority of 26 U.S.C. 7805, §§ 1.141–7 and 1.141–8 in the notice of proposed rulemaking that was published on December 30, 1994 (59 FR 67658) are withdrawn.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

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

PART 1—INCOME TAXES

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

AUTHORITY: 26 U.S.C. 7805 * * *

Par. 2. Section 1.141–7 is added to read as follows:

§ 1.141–7 Special rules for output facilities.

[The text of this proposed section is the same as the text of §§ 1.141–7T

published elsewhere in this issue of the **Federal Register.**]

Par. 3. Section 1.141–8 is amended by adding the text of the section to read as follows:

§ 1.141–8 $15 million limitation for output facilities.

[The text of this proposed section is the same as the text of § 1.141–8T published elsewhere in this issue of the **Federal Register.**]

Par. 4. Section 1.141–15 is amended by adding paragraphs (f) through (i) to read as follows:

§ 1.141–15 Effective dates.

* * * * *

(f) through (i) [The text of proposed paragraphs (f) through (i) are the same as the text of § 1.141–15T(f) through (i) published elsewhere in this issue of the **Federal Register**.]

Par. 5. Section 1.142(f)(4)–1 is added to read as follows:

§ 1.142(f)(4)–1 Manner of making election to terminate tax-exempt bond financing.

[The text of this proposed section is the same as the text of § 1.142(f)(4)–1T published elsewhere in this issue of the **Federal Register**.]

Par. 6. Section 1.150–5 is added to read as follows:

§ 1.150–5 Filing notices and elections.

[The text of this proposed section is the same as the text of § 1.150–5T published elsewhere in this issue of the **Federal Register.**]

Michael P. Dolan,

Deputy Commissioner of Internal Revenue.

[FR Doc. 98–717 Filed 1–21–98; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 14

RIN 1018–AE08

Importation, Exportation, and Transportation of Wildlife

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: This proposed rule would revise the U.S. Fish and Wildlife Service (Service) regulations providing for user fee collections from commercial importers and exporters of wildlife and wildlife products. We, the Service, propose a licensing and fee scheme which will exempt certain commercial importers and exporters from our inspection fee, based upon specific criteria, including country of origin, numbers of items, and permitting requirements. We propose to modify our user fee regulations to grant relief to certain individuals and small businesses, meeting the outlined criteria, from the designated port inspection fee and nondesignated port administrative fee and hourly minimums only. This proposal, if implemented, will allow us to continue to collect data on fee collections in order to analyze the impact of user fees on small business for future decision making.

We will also update the authority citation for this part to delete an obsolete reference and to reflect the current United States Code citation regarding fees and charges for Government services.

DATES: Comments must be submitted on or before March 23, 1998.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Director, U.S. Fish and Wildlife Service, P.O. Box 3247, Arlington, Virginia 22203–3247. Comments and materials may be hand-delivered to the U.S. Fish and Wildlife Service, Division of Law Enforcement, 4401 N. Fairfax Drive, Room 500, Arlington, Virginia, between the hours of 8 a.m. and 4 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Kevin R. Adams, Chief, Division of Law Enforcement, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240, Telephone Number (703) 358–1949.

SUPPLEMENTARY INFORMATION:

Background

On June 21, 1996, we published a final rule (61 FR 31850) which established a new requirement in Part 14 for all commercial importers and exporters of wildlife and wildlife products to obtain an Import/Export License (license) and also provided for our charging license holders increased inspection and overtime fees. The final rule eliminated the $25,000 annual dollar value exemption the Service had utilized since 1984 in determining whether a particular business or individual was required to have a license. The final rule raised the inspection fees charged to licensees to enable the Service to more fully recoup the costs of operating the wildlife inspection program. We published the June 21, 1996, final rule after several lengthy comment periods which began with the notice of intent to review published on November 14, 1991 (56 FR 57873). Of the 800 total comments received, 81 were on the new fee structure discussed in the notice of intent, the proposed rule published November 15, 1994 (59 FR 58811), and the supplemental proposed rule published March 23, 1995 (60 FR 15277). We received 64 favorable comments on the fee increase out of 81 total with 17 commenters opposed to a user fee increase. Several of the 17 commenters opposed to the fee increase requested that we maintain a dollar value exemption for small businesses. We acknowledged these commenters' concerns and expressed our own concern for the new fee structure being perceived as overly burdensome on small business, and replied, as restated in this proposed rule, that we are attempting to maintain the most efficient inspection program possible without being overly burdensome on smaller importers. We were attempting to implement the smallest fee increase possible which would allow us to recoup the cost of the wildlife inspection program. At the same time we were attempting to respond to several studies of the Service's inspection program that clearly indicate a need to raise inspection fees and overtime rates commensurate with costs incurred by the Service. In addition to the studies cited in the June 21, 1996, final rule, a 1994 General Accounting Office report states in its recommendations to the Secretary of the Interior, that the Service should ''Proceed with plans to increase the user fees charged by the wildlife inspection program * * *.''

Since the implementation of the new fee schedule on August 1, 1996, we have received comments, including eight Congressional inquiries, indicating that the burden on small business may be greater than the Service initially anticipated in the June 21, 1996, rulemaking. In the economic effects section of that document, we estimated the costs to newly licensed small businesses and individuals who are now subject to the inspection fee requirement. In the analysis we used estimated numbers extrapolated from 1994 data contained in the Law Enforcement Management Information System (LEMIS) which represented the best information available. Based upon comments received subsequent to publication of the final rule, we believe that we may have underestimated the cumulative effect that the increased licensing and inspection fees may impose on small business and certain individuals. We have determined that we may need better data upon which to rely in making a definitive analysis of

the effect of user fee increases on small business. The proposed system will continue to provide that data.

The Regulatory Flexibility Act of 1980 establishes as a principle of regulatory issuance that ''* * * agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the business, organizations, and governmental jurisdictions subject to regulation.'' Therefore, in order to address the immediate concerns of small business and maintain consistency with the Regulatory Flexibility Act, we propose a new licensing and inspection fee system that will accomplish two objectives. First, the new system contained in this proposed rule would grant immediate relief from the economic burden of the increased inspection fees, and/or administrative fees and hourly minimums, to importers and exporters of wildlife and wildlife products at designated ports, border or special ports, and nondesignated ports that meet specific criteria.

Second, by continuing to require that all commercial importers and exporters be licensed, the new system would allow the Service to continue to monitor wildlife import/export activity in order to gather the data necessary to make future decisions on the true impact of our user fees on small businesses and certain individuals.

Inspection Fee Exemption Criteria

We propose to amend the inspection fee system to establish specific criteria that we will use to determine if the inspection fee applies at the time of import or export. The proposed revision uses distinctions that are already established in the regulation. The Service currently uses these distinctions to determine the applicability of various parts of the regulation to wildlife being imported or exported. We propose to use these same distinctions to establish if the inspection fee applies to wildlife shipments at the time of import to or export from the United States. Shipments will have to meet several basic criteria in order to qualify for the inspection fee exemption. The basic exemption criteria are outlined as follows: First, the inspection fee exemption will only apply to shipments that do NOT require permits under 50 CFR parts 16 (Injurious wildlife), 17 (Endangered and threatened wildlife and plants), 18 (Marine mammals), 21 (Migratory bird permits), or 23 (Endangered species convention). Those shipments that contain wildlife that require permits will not be eligible for any inspection fee exemption. Second, the wildlife must have been lawfully taken from the wild in the United States, Canada, or Mexico, and imported or exported between the United States and Canada or Mexico. Shipments containing wildlife taken in any other country and imported or exported between any countries other than the United States, Canada, or Mexico will not be eligible for the inspection fee exemption. Third, the wildlife shipment must be imported or exported by the person who took the wildlife from the wild, or by a member of that person's immediate family, provided, that the importer or exporter of record is licensed in accordance with 50 CFR 14.91. Last, the shipment must consist of raw fur, raw, salted, or crusted hides or skins, or separate parts thereof, and the shipment cannot exceed 100 raw furs, raw, salted, crusted, hides or skins or separate parts thereof. The intent of this rulemaking is to provide financial relief from the burden of the inspection fees for small business and certain individuals who may be disproportionately affected. The Service believes that a cutoff point of 100 raw furs, raw, salted, or crusted hides or skins, or separate parts thereof will adequately distinguish between small shippers disproportionately affected and those commercial wildlife dealers less impacted by the user fee.

All of the primary criteria for the user fee exemption outlined above serve as a means of limiting the exemption application to certain individuals or small business, while at the same time maintaining the integrity and intent of the user fee rulemaking published on June 21, 1996. By using distinctions already drawn in the regulation, we believe that the proposed criteria represent a balance between maintaining user fee revenues and providing small business economic relief.

In addition to the primary criteria, the Service will use additional criteria, outlined below, to ensure that the user fee exemption is utilized by those intended and to allow for statistical tracking of the exemption's use. As stated, the importer or exporter of record who is shipping wildlife that otherwise meets the inspection fee exemption criteria will still have to obtain an Import/Export License from the Service at a cost of $50 annually (see 50 CFR part 14, subpart I). The raw fur, raw, salted or crusted hides or skins, or separate parts thereof cannot have been previously bought or sold if the inspection fee exemption is to apply. The fee exemption will not apply to manufactured products or live animals of any kind.

The reason for the latter two criteria is that the fee exemption is intended to apply to small, low volume businesses engaged in wildlife trade on a small scale where there is relatively low cash flow, or to individuals who take wildlife from the wild as a hobby or to supplement their income and who do not deal in manufactured products or live animals as a primary means of income. We believe that wildlife traders buying and selling imported wildlife in the United States and those dealing in manufactured products or live animals require a higher level of oversight and are less impacted by the inspection fee.

The importer or exporter whose wildlife shipments meet the user fee exemption criteria will still be required to pay overtime fees or designated port exception permit fees if applicable. If wildlife being shipped requires a Convention on International Trade in Endangered Species (CITES) permit, no exemption from the user fee will be granted due to the higher level of oversight required by the Service on these shipments.

Certification

In order for the Service to have some means of verifying that the raw furs, raw, salted or crusted hides or skins, or separate parts thereof are, in fact, taken from the wild by the licensee who is acting as importer/exporter of record, or taken from the wild by a member of his or her immediate family, the licensee must sign a certification statement supplied by the Service at the time clearance is requested. The certification statement will ask that the licensee certify, subject to the penalties provided for under 18 U.S.C. Section 1001 for false or fraudulent statements, that he or she took the raw furs, raw, salted, or crusted hides or skins, or separate parts thereof from the wild or that they were taken from the wild by a member of that person's immediate family. We will consider the term ''immediate family'' to mean a licensee's spouse, parents, siblings, and children. The Service believes that extending the meaning to include grandparents, cousins, aunts, or uncles would compromise the intent of this rule. This signed certification statement will have to be presented to a Service officer at the time clearance is requested.

The Service intends that this inspection fee exemption framework utilize existing regulatory language that grants various exemptions to 50 CFR part 14, including § 14.15 and § 14.62. In addition, 50 CFR part 14 already exempts certain ''classes'' of wildlife

from various regulatory requirements, including farm-raised fish from the designated port requirement on export, aquatic invertebrates of the Class Pelecypoda from the designated port and declaration requirement, and captive-bred furbearers from the marking requirement. We believe that these distinctions are consistent with the intent of the regulation.

In summary, the Service will exempt commercial wildlife shipments from the designated port inspection fee and/or the nondesignated port administrative fee and hourly minimums, whichever applies, for shipments meeting the following criteria: no permits are required under 50 CFR parts 16, 17, 18, 21, or 23; imports or exports are between the United States and Canada or Mexico of raw furs, raw, salted, or crusted hides or skins, or separate parts thereof, lawfully taken from the wild in the United States, Canada, or Mexico; imported or exported by the person taking the wildlife from the wild, or taken from the wild by a member of the importer or exporters' immediate family; provided, the importer or exporter of record is licensed; the shipment or any part thereof has not been previously bought or sold; the shipment does not exceed 100 raw furs, raw, salted, or crusted, hides or skins, or separate parts thereof; the shipment does not contain any manufactured products or live animals; overtime fees, if applicable, have been paid; and the importer or exporter has attached a certification statement stating that the shipment contains items taken from the wild by the importer/exporter of record or by a member of that person's immediate family.

The following chart illustrates the commercial user fee charges at designated and nondesignated ports during normal working hours before the June 21, 1996, final rule, after the August 1, 1996, effective date of that final rule, and under this proposed rule, for comparison:

Fees	Prior to June 21, 1996 final rule	After August 1, 1996 effective date	Proposed
Designated Port	Under 25K/year No Charge. $125/year License Fee. $25/Shipment Inspection Fee.	$50/year License Fee. $55/Shipment Inspection Fee.	$50/year License Fee. $55/Shipment Inspection Fee if criteria not met. No Charge if criteria met.
Nondesignated Port	Under 25K/year No Charge. $125/Shipment Administrative Fee plus 2 hour minimum at $25/hr ($50).	$50/year License Fee. $55 Administrative Fee plus 2 hour minimum at $20/hr ($40).	$50/year License Fee. $55 Administrative Fee plus 2 hour minimum at $20/hr ($40) if criteria not met. No Charge if criteria met.

All interested parties are invited to submit comments on this proposal.

Paperwork Reduction Act of 1995, 44 U.S.C. 3501 et seq.

This proposed rule affects only the requirement to pay an inspection fee for shipments and contains no information collections for which Office of Management and Budget approval is required under the Paperwork Reduction Act (44 U.S.C. 3501). Importers/exporters subject to this rule may be subject to the requirement to file a Declaration for Importation or Exportation of Fish or Wildlife (FWS form 3–177; OMB approval number 1018–0012; expiration date August 31, 2000). This rule does not change or affect the information collection requirements associated with the declaration form 3–177.

Required Determinations

The Service has determined that these proposed regulations meet the applicable standards provided in Sections 3(a) and 3(b)(2) of Executive Order 12988.

The Service has determined and certifies pursuant to the Unfunded Mandates Act, 2 U.S.C. 1502 et seq., that this rulemaking will not impose a cost of $100 million or more in any given year on local or State governments or private entities.

Economic Effects

The Service conducted an economic analysis of this proposed rule. The declared value of all wildlife shipments requiring Service clearance in Fiscal Year 1995 was approximately $860,000,000. In 1996, the total value of all wildlife shipments which may be eligible for the proposed exemption was $700,734. Fees payable to the Service on these shipments would be reduced between $22,935 and $39,615 under the proposed rule. No substantial indirect economic effects are anticipated so the effect of the rule is much less than $100 million annually. Shipment volume is not expected to rise to a level that would generate $100 million annual impact. This rulemaking was not subject to review by the Office of Management and Budget under Executive Order 12866.

Accordingly, under the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 et seq.), this rulemaking will not have a significant economic effect on a substantial number of small entities, which include businesses, organizations, or governmental jurisdictions. The proposed rule exempts small shippers from the Fish and Wildlife Service inspection fee and so represents an adaptation of the current fee structure to provide relief for small shippers, therefore, this rule will have a beneficial effect on such entities.

List of Subjects in 50 CFR Part 14

Animal welfare, Exports, Fish, Imports, Labeling, Reporting and recordkeeping requirements, Transportation, Wildlife.

Regulation Promulgation

For the reasons set out in the preamble, the Service proposes to amend Title 50, Chapter I, subchapter B of the Code of Federal Regulations as set forth below:

PART 14—IMPORTATION, EXPORTATION, AND TRANSPORTATION OF WILDLIFE

1. Revise the authority citation for Part 14 to read as follows:

Authority: 16 U.S.C. 668, 704, 712, 1382, 1538(d)–(f), 1540(f), 3371–3378, 4223–4244, and 4901–4916; 18 U.S.C. 42; 31 U.S.C. 9701.

2. Amend § 14.94 by revising paragraph (a) and adding paragraph (e) to read as follows:

§ 14.94 Fees.

(a) *License and inspection fees.* The Service will impose a yearly fee for a license pursuant to § 14.93. In addition, each licensee must pay an inspection fee for each wildlife shipment imported into or exported from the United States at a designated port. Licensees who import into or export from the United States wildlife shipments meeting the criteria outlined in paragraph (e) of this section are exempt from the designated port inspection fee, or nondesignated port administrative fee and hourly minimums, whichever apply, *provided*, that all overtime fees and permit fees still apply.

* * * * *

(e) *Exemption criteria.* Wildlife shipments meeting all of the following criteria are exempt from the designated port inspection fee or nondesignated port administrative fee and hourly minimums:

(1) No permits are required under parts 16, 17, 18, 21, 22, or 23 of this subchapter;

(2) The wildlife is imported or exported between the United States and Canada or Mexico;

(3) The wildlife shipment consists of raw fur, raw, salted, or crusted hides or skins, or separate parts thereof, lawfully taken from the wild in the United States, Canada, or Mexico;

(4) The wildlife was taken from the wild by the importer or exporter of record or a member of his immediate family;

(5) The importer or exporter of record is licensed in accordance with § 14.91;

(6) The wildlife or any part thereof has not been previously bought or sold;

(7) The shipment does not exceed 100 raw furs, raw, salted, or crusted hides or skins, or separate parts thereof;

(8) The shipment does not contain any manufactured products or live animals.

Donald J. Barry,

Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 98–1414 Filed 1–21–98; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AE30

Endangered and Threatened Wildlife and Plants; Notice of Public Hearing and Extension of Comment Period on Proposed Endangered Status for Rough Popcornflower

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of public hearing and reopening and extension of comment period.

SUMMARY: The Fish and Wildlife Service (Service), pursuant to the Endangered Species Act of 1973, as amended (Act), provides notice of a public hearing on the proposed endangered status for *Plagiobothrys hirtus* (rough popcornflower). In addition, the Service has reopened and extended the comment period to accommodate a public hearing that was requested by Mr. Danny Lang of Roseburg, Oregon. All parties are invited to submit comments on this proposal.

DATES: The comment period now closes on February 23, 1998. Any comments received by the closing date will be considered in the final decision on this proposal. The public hearing will be held on Tuesday, February 10, 1998, from 6:00 p.m. to 8:00 p.m.

ADDRESSES: The public hearing will be held at the Holiday Inn Express, 375 West Harvard Boulevard, Roseburg, Oregon. Comments and materials concerning this proposal should be sent to the State Supervisor, U.S. Fish and Wildlife Service, Oregon State Office, 2600 S.E. 98th Avenue, Suite 100, Portland, Oregon 97266. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Dr. Andrew F. Robinson Jr. of the Oregon State Office (see **ADDRESSES** section) at (503) 231–6179.

SUPPLEMENTARY INFORMATION:

Background

Plagiobothrys hirtus is an annual herb on drier sites, or perennial herb on wetter sites, that is known from only the interior valley of the Umpqua River in Douglas County, Oregon. The plant is threatened by destruction and/or alteration of habitat by development and hydrological change (e.g., wetland fills, draining, construction); spring and summer grazing by domestic cattle, horses, and sheep; roadside maintenance; and competition from native and non-native species (i.e., succession and encroachment). Comments from the public regarding the accuracy of this proposed rule are sought, especially regarding:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to the species listed above;

(2) The location of any additional populations of the species and the reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act;

(3) Additional information concerning the range, distribution, and population sizes of the species; and

(4) Current or planned activities in the subject area and their possible impacts on the species.

On November 20, 1997, the Service published a rule proposing endangered status for *Plagiobothrys hirtus* in the **Federal Register** (62 FR 61953). The original comment period was to close on January 20, 1998. Section 4(b)(5)(E) of the Act (16 U.S.C. 1531 et seq.) requires that a public hearing be held if it is requested within 45 days of the publication of the proposed rule. A public hearing request from Mr. Danny Lang of Roseburg, Oregon was received within the allotted time period. The Service has scheduled a public hearing on Tuesday, February 10, 1998, at the Holiday Inn Express in Roseburg, Oregon.

Parties wishing to make statements for the record should bring a copy of their statements to the hearing. Oral statements may be limited in length, if the number of parties present at the hearing necessitates such a limitation. There are no limits to the length of written comments or materials presented at the hearing or mailed to the Service. Written comments carry the same weight as oral comments. The comment period now closes on February 23, 1998. Written comments should be submitted to the Service Office listed in the **ADDRESSES** section.

Author

The primary author of this notice is Dr. Andrew F. Robinson Jr. (see **ADDRESSES** section).

Authority

The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

Dated: January 7, 1998.

Don Weathers,

Acting Regional Director, Region 1, Portland, Oregon, Fish and Wildlife Service.

[FR Doc. 98–857 Filed 1–21–98; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AE54

Endangered and Threatened Wildlife and Plants; Proposed Rule To List the Plant Lesquerella Thamnophila (Zapata Bladderpod) as Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Fish and Wildlife Service (Service) proposes to list the plant *Lesquerella thamnophila* (Zapata bladderpod) as an endangered species under the Endangered Species Act of 1973, as amended (Act). *Lesquerella thamnophila* is known from four locations in Zapata and Starr Counties, Texas. This species is threatened by increased urban development, highway construction, increased oil and gas

activities, alteration and conversion of native plant communities to improved pastures, overgrazing, and vulnerability from low population numbers. This proposal, if made final, will extend the Act's protection to *Lesquerella thamnophila.* Designation of critical habitat is not being proposed because the Service has determined such designation is not prudent.

DATES: Comments from all interested parties must be received by March 23, 1998. Public hearing requests must be received by March 9, 1998.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Field Supervisor, U.S. Fish and Wildlife Service, Ecological Services Field Office, c/o Texas A&M University-Corpus Christi, Campus Box 338, 6300 Ocean Drive, Corpus Christi, Texas 78412. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Field Supervisor of the Corpus Christi Ecological Services Field Office in Corpus Christi, Texas. (Telephone 512–994–9005; Facsimile 512–994–8262).

SUPPLEMENTARY INFORMATION:

Background

Lesquerella thamnophila, a member of the mustard family, was first collected in Zapata County, Texas by R.C. Rollins in 1959. The species was named *Lesquerella thamnophila* in 1973 by R.C. Rollins and E.A. Shaw in their work on the genus *Lesquerella* (Rollins and Shaw 1973). The few collected specimens of *Lesquerella thamnophila* have all come from Zapata and Starr Counties in southern Texas.

Lesquerella thamnophila is a pubescent, somewhat silvery-green herbaceous perennial plant with sprawling stems 43–85 centimeters (cm) (16–32 inches (in)) long. It has narrow basal leaves 4–12 cm (1.5–4.7 in) long and 7–15 millimeters (mm) (0.3–0.6 in) wide, with entire to wavy or slightly toothed margins. The stem leaves are 3–4 cm (1–1.5 in) long and 2–8 mm (0.1–0.3 in) wide, with margins similar to the basal leaves. The inflorescences, usually appearing in April but dependent upon the timing of spring rains, are loose racemes of yellow-petaled flowers. Fruits are round and 4.5–6.5 mm (0.2–0.8 in) in diameter on short downward curving pedicels (Poole 1989).

Lesquerella thamnophila occurs on level to sloping terrain in gravelly to sandy-loam upland terrace or Rio Grande floodplain soils. Known locations are associated with three Eocene-age geologic formations—the Jackson, Laredo, and Yegua—which have yielded fossiliferous and calcareous sandstones and clays. The Starr County sites for *Lesquerella thamnophila* occur within the Jimenez-Quemado soil association and on Catarina series soils. Jimenez-Quemado soils are well-drained, shallow, gravelly to sandy loams underlain by caliche. Catarina series soils are clayey, saline upland soils developed from calcareous, gypsiferous, or saline clays that usually contain many drainages and erosional features. The underlying material of these soils contains many calcareous concretions, gypsum crystals, and marine shell fragments (Thompson, *et al.* 1972).

The soils of Zapata County have not been mapped in detail, but the bladderpod sites in Zapata County occur within the Zapata-Maverick soil association, based upon the general soils map for the county. Zapata soils are shallow and well-drained, occurring over caliche. Maverick soils are upland clayey soils occurring over caliche with the underlying calcareous material also containing shale and gypsum crystals (Thompson, *et al.* 1972).

Lesquerella thamnophila occurs as a herbaceous component of an open *Leucophyllum frutescens* (cenizo) shrub community that grades into an *Acacia rigidula* (blackbrush) shrub community. Both plant communities dominate many upland habitats on shallow soils near the Rio Grande (Diamond 1990). Other common plant species in the cenizo and blackbrush communities include *Acacia berlandieri* (guajillo), *Prosopis glandulosa* (mesquite), *Celtis pallida* (granjeno), *Yucca treculeana* (Spanish dagger), *Zizyphus obtusifolia* (lotebush), and *Porlieria angustifolia* (guayacan). The aggressively invasive nonnative *Cenchrus ciliaris* (buffelgrass) is also commonly present. These shrublands are sparsely vegetated due to the shallow, fast-draining soils and semi-arid climate (Poole 1989).

These open brushland communities are used primarily as rangeland and, due to the semi-arid environment, are sensitive to soil erosion and vegetation changes brought about by long-term livestock overgrazing (Schlesinger, *et al.* 1990). As a result, root-plowing of shrubs and subsequent planting of buffelgrass are common regional practices for rangeland improvement. Cattle reportedly graze on *Lesquerella thamnophila* (Poole 1989).

Lesquerella thamnophila occurred historically in Zapata and Starr counties in the United States. It has never been collected in Mexico despite its potential occurrence there. Recent surveys of historical locations in Starr County failed to relocate those populations. Poole (1989) located three populations, two in Zapata County and one in Starr County. In April 1994, Bill Carr and Lee Elliott of the Texas Parks and Wildlife Department discovered another previously unknown Starr County location (Lee Elliott, pers. comm. 1994).

The number of plants in known populations appears to fluctuate dramatically in apparent response to precipitation (Poole 1989). In 1985, there were approximately 5,000 plants at one 4-hectare (ha) (10-acre (ac)) Zapata County site (Tigre Chiquita) and approximately 1,000 plants at the 15-acre type locality in Zapata County (Falcon Lake West). The year 1986 was dry; only 28 plants were counted at the Tigre Chiquita site, and none at Falcon Lake West. Plants were seen at both Zapata County sites again in 1988, but no specific population counts were recorded. No plants have been observed at the Falcon Lake West site since 1988.

The Texas Parks and Wildlife Department has established a management agreement with the Texas Department of Transportation for the Tigre Chiquita site. The agreement requires that the transportation agency avoid mowing within the highway right-of-way from February to May, while the plant is actively growing. The Texas Parks and Wildlife Department annually monitors the site for population size and has recorded these numbers: 10 reproductive plants and 3 non-reproductive ones in 1991; no plants in 1992; 7 non-reproductive plants in 1993; one reproductive plant in 1994; 3 non-reproductive plants in 1995; and no plants in 1996 (probably due to drought).

In 1986, Poole (1989) found 20 plants at a 2–ha (5–ac) site in Starr County (Santa Margarita Ranch). Plants were again observed at this site in 1994, but the number of individuals was not recorded that year (Gena Janssen, Texas Parks and Wildlife Department, Austin, Texas, pers. comm. 1994). Approximately 70 plants were seen in 1997. In 1994, the Texas Parks and Wildlife Department recorded about 50 plants at a new Starr County site (Cuellar Tract) located on a tract of the Lower Rio Grande National Wildlife Refuge. In 1996, a monitoring plot was established and a total of 131 plants were located, 84 of them non-reproductives. In 1997, an extremely wet year, the estimated number of individuals increased to several thousand, all within a 2–3 acre section of the tract.

Lesquerella thamnophila is a cryptic annual species and blooms within a set

period of time following spring rainfall, creating a short period in which to survey. These factors may contribute to the occasional inability to locate these plants at known sites. Additional surveys carried out at the most favorable times to find specimens, and focusing on associated soil types, are warranted during the review of this species for listing as endangered.

Previous Federal Action

Federal action involving this species began with section 12 of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*), which directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened, or extinct. This report, designated as House Document No. 94–51, was presented to Congress on January 9, 1975. On July 1, 1975, the Service published a notice in the **Federal Register** (40 FR 27823) accepting the Smithsonian report as a petition within the context of section 4(c)(2) of the Act, now section 4(b)(3)(A), and announcing that it would initiate a review of the status of those plants. *Lesquerella thamnophila* was included as threatened in the Smithsonian report and in the Service notice.

On June 16, 1976 (41 FR 24523), the Service published a proposed rule to determine approximately 1,700 vascular plants as endangered. *Lesquerella thamnophila* was included in this proposal. However, the 1978 amendments to the Act required the withdrawal of all proposals over 2 years old (although a 1 year grace period was allowed for those proposals already over 2 years old). On December 10, 1979 (44 FR 70796), the Service published a notice withdrawing that portion of the June 16, 1976, proposal that had not been made final.

On December 15, 1980 (45 FR 82823), the Service published a list of plants under review for listing as threatened or endangered, in which *Lesquerella thamnophila* was included as a category 2 candidate. Category 2 candidates were those species for which available information indicated listing as threatened or endangered may have been appropriate, but for which substantial data were not available to support preparation of a proposed rule.

Section 4(b)(3)(B) of the Act requires that findings be made by the Secretary on pending petitions within 12 months of their receipt. Section 2(b)(1) of the 1982 amendments to the Act required that all petitions pending as of October 13, 1982, be treated as having been submitted on that date. The 1975 Smithsonian report was accepted as a petition; therefore, all the plants noted within the report, including *Lesquerella thamnophila,* were treated as being newly petitioned on October 13, 1982. In each subsequent year, from 1983 to 1993, the Service determined that the petition to list *Lesquerella thamnophila* was warranted, but precluded by other listing actions of higher priority, and that additional data on vulnerability and threats were still being compiled.

A status report on *Lesquerella thamnophila* was completed August 8, 1989 (Poole 1989). That report provided sufficient information on biological vulnerability and threats to warrant reassigning the species as a category 1 candidate and supporting preparation of a proposed rule to list *Lesquerella thamnophila* as endangered. ''Category 1 candidates'' were those for which the Service had substantial information indicating that listing under the Act was warranted.

Notices revising the 1980 list of plants under review for listing as endangered or threatened were published in the **Federal Register** on September 27, 1985 (50 FR 39626), February 21, 1990 (55 FR 6184), and September 30, 1993 (58 FR 51171). *Lesquerella thamnophila* was included in the September 30, 1993 notice as a category 1 candidate.

The 1996 Notice of Review (55 FR 6184) included *Lesquerella thamnophila* as a candidate. Candidates are species for which the Service has sufficient information indicating that a listing proposal is appropriate. The 1997 Notice of Review (62 FR 49398) also included *Lesquerella thamnophila* as a candidate.

Summary of Factors Affecting the Species

Section 4 of the Act and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Lesquerella thamnophila* are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Habitat destruction and modification are the primary threats to *Lesquerella thamnophila.* These threats include the introduction of non-native pasture grasses such as buffelgrass and conversion of native rangeland to improved pasture, overgrazing, urban development, construction or improvement of highways and utility transmission systems necessary to support urban infrastructures, and oil and gas exploration and production. These types of activities have destroyed or altered more than 95 percent of the native habitat in south Texas (Jahrsdoerfer and Leslie 1988).

It is a common practice in south Texas to improve rangeland for livestock production by removing the native shrubs through root-plowing or aerial herbicide application and then reseeding the area with non-native grasses, usually buffelgrass. This practice potentially destroys *Lesquerella thamnophila* habitat. Buffelgrass has spread beyond the improved pastures and is now present throughout south Texas. This invasive non-native grass out-competes and displaces native grasses, forbs, and small shrubs. Potential sites for native plant seedling establishment are lost due to light and moisture competition with buffelgrass, and possibly due to allelopathy.

Much of south Texas was severely overgrazed in the past, and overgrazing continues in many areas today. Vegetation of the semi-arid south Texas climate is less resilient to the impacts of long-term grazing than is the vegetation of wetter climates. This has led to severe erosion of the often highly erodible south Texas soils (Schlesinger, *et al.* 1990). It is impossible to calculate how much habitat suitable to *Lesquerella thamnophila* may have been lost in the past because of the destructive effects of overgrazing or the conversion of native rangeland to improved pasture.

Lesquerella thamnophila is threatened by potential urban development. The type locality for this species has been reduced to a small vacant lot in a resort subdivision on Falcon Reservoir in the City of Zapata. This area is undergoing rapid retirement home development. Another *Lesquerella thamnophila* population occurs in an abandoned trailer park adjacent to a major highway. Recent construction of convenience stores in the area could stimulate urbanization that might extirpate the population.

South Texas is undergoing a rapid increase in highway improvements and construction to handle increased traffic stimulated by the North American Free Trade Agreement. There are *Lesquerella thamnophila* populations adjacent to existing roads that could be proposed for widening. Additionally, existing unimproved roads adjacent to populations could be proposed for widening and paving.

There are *Lesquerella thamnophila* populations adjacent to maintained highway rights-of-way where herbicides are used to control vegetation around

bridges, guard rails, signs, and reflector posts. Herbicides may also be used to kill woody species encroaching into the rights-of-way and along fence lines. Any plants within the rights-of-way are threatened by maintenance practices such as blading or disking and reseeding with erosion control seed mixtures, which contain primarily non-native invasive grasses.

South Texas is presently undergoing a significant increase in oil and gas exploration and production, especially in Zapata and Starr counties. All phases of exploration and production have the potential to harm *Lesquerella thamnophila* populations and habitat. The seismic vibration method of gas exploration results in extensive temporary rights-of-way being cleared to facilitate equipment traffic. The construction of well pads, access roads, electric lines, and oil gathering lines from wells, if not planned properly, can all destroy plants and habitat. The proximity of this species to existing oil and gas development poses a threat from an increase in number and capacity of gathering lines.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* No commercial trade is currently known to exist for the species. However, listed plant species can be threatened by both collection and vandalism, activities difficult to prevent and only regulated on lands under Federal jurisdiction or in knowing violation of a State law or regulation. Listing a plant species can precipitate commercial and scientific interest in the species. This interest can threaten the species through unauthorized and uncontrolled collection. Federally listing a species under the Act creates the potential for vandalism at known and potential habitat sites. In many areas, private landowner concern regarding endangered species is especially high and may result in the intentional destruction of endangered species habitat.

C. *Disease or predation.* The populations of *Lesquerella thamnophila* have shown no evidence of disease. However, Poole (1989) reports that cattle graze the species to the extent that numbers of plants in populations subjected to grazing are severely reduced compared to those in adjacent, ungrazed lands. Grazing and browsing are greater threats during drought conditions when range quality is reduced and other forage species have been reduced or removed. This portion of south Texas is sensitive to overgrazing during drought conditions due to the semi-arid environment and the large area needed per grazing animal, even under ideal range conditions.

D. *The inadequacy of existing regulatory mechanisms.* The species is not currently protected by any Federal or State laws or regulations.

E. *Other natural or man-made factors affecting its continued existence.* There are only four known small *Lesquerella thamnophila* populations with widely fluctuating numbers of plants from year to year. Low plant numbers during drought years could cause genetic drift. This has the effect of lowering genetic variability and may reduce the species' ability to cope with environmental perturbations. The reduced number of plants during drought years, with populations in some areas actually being reduced to zero above-ground vegetative individuals, also makes the species vulnerable to extinction from a prolonged drought. *Lesquerella thamnophila* occurs along the Rio Grande and the effect of past flooding on creating or maintaining habitat for the species is unknown. The extreme rarity of this species makes populations vulnerable to extirpation and the species vulnerable to extinction from a variety of random environmental events.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by the species in determining to propose this rule. Based on this evaluation, the preferred action is to list *Lesquerella thamnophila* as endangered. The endangered status is appropriate because of the species' limited distribution, low population numbers, and imminent threats of habitat destruction. Threatened status would not accurately reflect the current status of this species.

Critical Habitat

Critical habitat is defined in section 3 of the Act as—(I) the specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection and; (ii) specific areas outside the geographic area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. ''Conservation'' means the use of all methods and procedures needed to bring the species to the point at which listing under the Act is no longer necessary.

Section 4(a)(3) of the Act, as amended, and implementing regulations (50 CFR 424.12) require that, to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time the species is determined to be endangered or threatened. Service regulations (50 CFR 424.12(a)(1)), state that designation of critical habitat is not prudent when one or both of the following situations exist—(1) the species is threatened by taking or other human activity, and identification of critical habitat can be expected to increase the degree of threat to the species, or (2) such designation of critical habitat would not be beneficial to the species.

As discussed under Factor B in the ''Summary of Factors Affecting the Species'' section of this rule, *Lesquerella thamnophila* is threatened by vandalism, an activity difficult to prevent and only regulated by the Act with respect to endangered plants in cases of (1) removal and reduction to possession from lands under Federal jurisdiction, or their malicious damage or destruction on such lands; and (2) removal, cutting, digging up, or damaging or destroying in knowing violation of any State law or regulation, including State criminal trespass law.

The limited protection for plants on private land renders them particularly vulnerable to vandalism or collection due to their lack of evasive ability. Simply listing a plant species can precipitate commercial and scientific interest, legal as well as illegal, which can threaten the species through unauthorized and uncontrolled collection for both commercial and scientific purposes. The designation of critical habitat involves publication of habitat descriptions and general mapped locations of the species, greatly increasing the likelihood of unwanted notice by potential collectors and of successful search and removal operations at specific sites.

Such information also greatly exacerbates the potential for vandalism of endangered or threatened plants at known and potential habitat sites. The designation of critical habitat affects only Federal projects or activities which they fund, authorize, or carry out. Its designation does not affect private land activities conducted by State and local government activities if the activity does not involve Federal funds or authorization. However, this is not always easily understood by private landowners whose property boundaries may be included within a general description of critical habitat for a specific species. Identification of proposed critical habitat for other species has resulted in widespread confusion and heightened concern by

the general public. More importantly, such action has resulted in the unnecessary destruction of endangered species habitat by landowners in order to avoid the imagined attention of the Service and perceived prohibitions on private land.

In the case of *Lesquerella thamnophila*, the Service finds that designation of critical habitat is not prudent since it is likely to increase the degree of threat of take of the species. Publication of critical habitat descriptions and locations would make the species especially vulnerable to collection and vandalism.

The designation of critical habitat for *Lesquerella thamnophila* is also not prudent since it will provide no additional conservation benefit to the species. The most severe threats to the species include the overgrazing of native range, and conversion of native rangeland to improved pasture with nonnative grasses. Designation of critical habitat will not affect these threats, since impacts stem from private land activities. Further protection of habitat on private or State land will be addressed through the recovery process and will involve identifying measures that can mutually benefit both the species and landowner.

Section 7 of the Act requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or cause the destruction or adverse modification of its critical habitat. *Lesquerella thamnophila* is currently restricted to four sites ranging from 5 acres to 45 acres in size. Any adverse impact to sites that would result in destruction or adverse modification of critical habitat would likely also jeopardize the continued existence of *Lesquerella thamnophila*. Thus, in the case of this species, critical habitat would provide no additional benefit beyond that provided through listing as endangered.

In summary, the Service finds that *Lesquerella thamnophila* is vulnerable to collection and vandalism, and that identification of critical habitat would increase its vulnerability. Further, adequate protection from adverse Federal actions is provided through listing the species as endangered under the Act, and designation of critical habitat would provide little additional protection. Therefore, the Service finds that designation of critical habitat would, on balance, be detrimental to the species. Critical habitat designation is thus not prudent.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing results in public awareness and conservation actions by Federal, State, and local agencies, private organizations, and individuals. The Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. The protection required of Federal agencies and the prohibitions against certain activities involving listed plants are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a species proposed for listing or result in destruction or adverse modification of proposed critical habitat. For listed species, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of the species or destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into consultation with the Service.

Federal agency actions that may require conference and/or consultation as described in the preceding paragraph include brush clearing for flood control in arroyos within the jurisdiction of the International Boundary and Water Commission; technical assistance to landowners by the Natural Resources Conservation Service (formerly Soil Conservation Service) for activities funded by the Consolidated Farm Service Agency (formerly Agricultural Stabilization and Conservation Service); and rangeland herbicide registration by the Environmental Protection Agency. The Federal Highway Administration will need to consider the occurrence of the species in activities such as widening existing roadways or constructing new highways. The U.S. Department of Housing and Urban Development will need to consider these species when water, sewer, and power services are authorized following the development of unauthorized human settlements.

The Act and its implementing regulations set forth a series of general prohibitions and exceptions that apply to all endangered plants. All prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, sell or offer for sale in interstate or foreign commerce any such plant species; or to remove and reduce the species to possession from areas under Federal jurisdiction. In addition, for plants listed as endangered, the Act prohibits the removal and malicious damage or destruction of such plants on areas under Federal jurisdiction; and the removal, cutting, digging up, or damaging or destroying of such plants in any other area, including non-Federal lands, in knowing violation of any State law or regulation, including State criminal trespass law. Certain exceptions to the prohibitions apply to agents of the Service and State conservation agencies.

The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered plants under certain circumstances. Such permits are available for scientific purposes and to enhance the propagation or survival of the species. It is anticipated that few trade permits would ever be sought or issued because this species is not in cultivation nor common in the wild.

It is the policy of the Service (59 FR 34272) to identify to the maximum extent practicable at the time a species is listed those activities that would or would not constitute a violation of section 9 of the Act. The intent of this policy is to increase public awareness of the effect of the listing on proposed and ongoing activities within a species' range.

One population of the *Lesquerella thamnophila* occurs on public land under the jurisdiction of the Service. Collection, damage or destruction of this species on Federal lands is prohibited, although in appropriate cases a Federal endangered species permit may be issued to allow collection. As noted above, such activities on non-Federal lands would constitute a violation of section 9 if conducted in knowing violation of State law or regulation, including State criminal trespass law.

Normal residential lawn care and maintenance and the clearing of small areas surrounding a residence, which may be used as a fire break are not violations of section 9 and will not constitute take. The Service is not aware of any otherwise lawful activities being conducted or proposed by the public that will be affected by this listing and result in a violation of section 9.

Questions regarding whether specific activities will constitute a violation of section 9 should be directed to the Field Supervisor of the Service's Corpus Christi Office (see **ADDRESSES** section). Requests for copies of the regulations regarding listed plants and inquiries about prohibitions and permits may be addressed to U.S. Fish and Wildlife Service, Branch of Endangered Species/Permits, P.O. Box 1306, Albuquerque, New Mexico 87103 (telephone 505/248–6920; facsimile 505/248–6922).

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to this species;

(2) Reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act;

(3) Additional information concerning the range, distribution, and population size of this species;

(4) Current or planned activities in the subject area and their possible impacts on this species.

Final promulgation of the regulations on this species will take into consideration the comments and any additional information received by the Service, and such communications may lead to a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be received within 45 days of the date of publication of the proposal. Such requests must be made in writing and addressed to the Field Supervisor (see **ADDRESSES** section).

Required Determinations

This rule does not contain collections of information that require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

National Environmental Policy Act

The Fish and Wildlife Service has determined that Environmental Assessments and Environmental Impact Statements, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Act. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

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Authors

The primary authors of this document are Angela Brooks and Kathy Nemec (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Proposed Regulation Promulgation

Accordingly, the Service hereby proposes to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. Amend § 17.12(h) by adding the following, in alphabetical order under FLOWERING PLANTS, to the List of Endangered and Threatened Plants to read as follows:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Family	Status	When listed	Critical habitat	Special rules
Scientific name	Common name						
FLOWERING PLANTS							
*	*	*	*	*	*		*
Lesquerella thamnophila.	Zapata bladderpod ..	U.S.A. (TX)	Brassicaceae	E	.....	NA	NA
*	*	*	*	*	*		*

Dated: December 30, 1997.

Jamie Rappaport Clark,

Director, Fish and Wildlife Service.

[FR Doc. 98–1518 Filed 1–21–98; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register
Vol. 63, No. 14
Thursday, January 22, 1998

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

Office of the Secretary

Commission on 21st Century Production Agriculture Meeting

AGENCY: Office of the Secretary.

ACTION: Notice of establishment and meeting.

SUMMARY: The U.S. Department of Agriculture (USDA) has established the Commission on 21st Century Production Agriculture. In accordance with Section 10(a)(2) of the Federal Advisory Committee Act, notice is hereby given of the first meeting of the Commission on 21st Century Production Agriculture. The purpose of this meeting is to consider organizational matters, operational procedures, and personnel matters. This meeting will be open to the public (limited only by space available) except when in executive session to consider personnel matters.

PLACE, DATE, AND TIME OF MEETING: The meeting will be held in Room 221–A, Jamie L. Whitten Federal Building, U.S. Department of Agriculture, 1400 Independence Avenue, S.W., Washington, D.C. 20250, from 9:00 am–5 pm on February 2, 1998, and 9:00 am–noon on February 3, 1998.

FOR FURTHER INFORMATION CONTACT:

Keith J. Collins (202–720–5955), Chief Economist, Room 112–A, Jamie L. Whitten Federal Building, 1400 Independence Avenue, S.W., Washington, D.C. 20250–3810.

Dated: January 16, 1998.

Keith J. Collins,

Chief Economist.

[FR Doc. 98–1561 Filed 1–21–98; 8:45 am]

BILLING CODE 3410–01–M

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Notice of Federal Invention Available for Licensing and Intent To Grant Co-Exclusive Licenses

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice of availability and intent.

SUMMARY: Notice is hereby given that a Federally owned invention U.S. Serial No. 08/876,800, filed June 16, 1997, entitled, ''Apparatus and Procedure for Placement of Bale Ties'' is available for licensing and the U.S. Department of Agriculture, Agricultural Research Service, intends to grant to Harrell Equipment Company, Inc., of Pelham, Georgia, and Leggett & Platt Packaging Group, of Carthage, Missouri, co-exclusive licenses to Serial No. 08/876,800.

DATES: Comments must be received by April 22, 1998.

ADDRESSES: Send comments to: USDA, ARS, Office of Technology Transfer, Room 415, Building 005, BARC-West, Beltsville, Maryland 20705–2350.

FOR FURTHER INFORMATION CONTACT: June Blalock of the Office of Technology Transfer at the Beltsville address given above; telephone: 301–504–5989.

SUPPLEMENTARY INFORMATION: The Federal Government's patent rights to this invention are assigned to the United States of America, as represented by the Secretary of Agriculture. It is in the public interest to so license this invention as the Harrell Equipment Company, Inc., and the Leggett & Platt Packaging Group, have submitted complete and sufficient applications for licenses. The prospective co-exclusive licenses will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective co-exclusive licenses may be granted unless, within ninety (90) days from the date of this published Notice, the Agricultural Research Service receives written evidence and argument which establishes that the grant of the licenses would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Richard M. Parry, Jr.,

Assistant Administrator.

[FR Doc. 98–1508 Filed 1–21–98; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Notice of Federal Invention Available for Licensing and Intent to Grant Exclusive License

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice of availability and intent.

SUMMARY: Notice is hereby given that a Federally owned invention U.S. Serial No. 08/890,890, filed July 10, 1997, entitled, ''Device and Method for Reducing Bale Packaging Forces'' is available for licensing and the U.S. Department of Agriculture, Agricultural Research Service, intends to grant to Leggett & Platt Packaging Group, of Carthage, Missouri, an exclusive license to Serial No. 08/890,890.

DATES: Comments must be received by April 22, 1998.

ADDRESSES: Send comments to: USDA, ARS, Office of Technology Transfer, Room 415, Building 005, BARC-West, Beltsville, Maryland 20705–2350.

FOR FURTHER INFORMATION CONTACT: June Blalock of the Office of Technology Transfer at the Beltsville address given above; telephone: 301–504–5989.

SUPPLEMENTARY INFORMATION: The Federal Government's patent rights to this invention are assigned to the United States of America, as represented by the Secretary of Agriculture. It is in the public interest to so license this invention as Leggett & Platt Packaging Group, has submitted a complete and sufficient application for a license. The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within ninety (90) days from the date of this published Notice, the Agricultural Research Service receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Richard M. Parry, Jr.,

Assistant Administrator.

[FR Doc. 98–1507 Filed 1–21–98; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Notice of Intent to Grant Exclusive License

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice of intent.

SUMMARY: Notice is hereby given that the U.S. Department of Agriculture, Agricultural Research Service, intends to grant to Roxide International, Inc., of New Rochelle, New York, an exclusive license to Serial No. 08/779,066 filed on January 7, 1997, entitled ''Whitefly Trap.'' Notice of Availability was published in the **Federal Register** on August 7, 1997.

DATES: Comments must be received by March 23, 1998.

ADDRESSES: Send comments to: USDA, ARS, Office of Technology Transfer, Room 415, Building 005, BARC-West, Beltsville, Maryland 20705–2350.

FOR FURTHER INFORMATION CONTACT: June Blalock of the Office of Technology Transfer at the Beltsville address given above; telephone: 301–504–5989.

SUPPLEMENTARY INFORMATION: The Federal Government's patent rights to this invention are assigned to the United States of America, as represented by the Secretary of Agriculture. It is in the public interest to so license this invention as Roxide International, Inc., has submitted a complete and sufficient application for a license. The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within sixty (60) days from the date of this published Notice, the Agricultural Research Service receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Richard M. Parry, Jr.,

Assistant Administrator.

[FR Doc. 98–1509 Filed 1–21–98; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Notice of Federal Invention Available for Licensing and Intent to Grant Exclusive License

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice of availability and intent.

SUMMARY: Notice is hereby given that a Federally owned invention U.S. Serial No. 08/909,310, filed August 14, 1997, entitled, ''A Technique to Reduce Chemical Usage and Concomitant Drift From Aerial Sprays'' is available for licensing and the U.S. Department of Agriculture, Agricultural Research Service, intends to grant to Spectrum Electrostatic Sprayers, Inc., of Houston, Texas, an exclusive license to Serial No. 08/909,310.

DATES: Comments must be recieved by April 22, 1998.

ADDRESSES: Send comments to: USDA, ARS, Office of Technology Transfer, Room 415, Building 005, BARC-West, Beltsville, Maryland 20705–2350.

FOR FURTHER INFORMATION CONTACT: June Blalock of the Office of Technology Transfer at the Beltsville address given above; telephone: 301–504–5989.

SUPPLEMENTARY INFORMATION: The Federal Government's patent rights to this invention are assigned to the United States of America, as represented by the Secretary of Agriculture. It is in the public interest to so license this invention as Spectrum Electrostatic Sprayers, Inc., has submitted a complete and sufficient application for a license. The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within ninety (90) days from the date of this published Notice, the Agricultural Research Service receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Richard M. Parry, Jr.,

Assistant Administrator.

[FR Doc. 98–1510 Filed 1–21–98; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Forest Service

California Coast Province Advisory Committee (PAC)

AGENCY: Forest Service, USDA.

ACTION: Notice of Meeting.

SUMMARY: The California Coast Province Advisory Committee (PAC) will meet on February 4 and 5, 1998, at Humboldt State University, Agate Room in the Jolly Giant Commons, in Arcata, CA. The meeting will be held from 8:00 a.m. to 5:00 p.m. each day. Humboldt State University is located in 1 Harpst Street in Arcata. Agenda items to be covered include: (1) Subcommittee meetings; (2) Work on the Ground Subcommittee report and recommendations; (3) Panel discussion and recommendations on old growth standards and guidelines in the Northwest Forest Plan; (4) Recreation/Tourism Subcommittee report; (5) Public/Private/Tribal Partnership Opportunities Subcommittee report and recommendations; (6) Presentation on air quality standards and impacts on fuels management; (7) Monitoring Subcommittee report and recommendations; (8) Presentation on Pacific Southwest Research fuels research proposal; (9) Report and recommendations from the PAC/SCERT coordinating committee; (10) Presentation on community based outreach; (11) PAC and agency updates; and (12) Open public forum. All California Coast Province Advisory Committee meetings are open to the public. Interested citizens are encouraged to attend.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to Daniel Chisholm, USDA, Forest Supervisor, Mendocino National Forest, 825 N. Humboldt Avenue, Willows, CA 95988, (530) 934–3316 or Phebe Brown, Province Coordinator, USDA, Mendocino National Forest, 825 N. Humboldt Avenue, Willows, CA 95988, (530) 934–3316.

Dated: January 15, 1998.

Arthur Quintana,

Acting Forest Supervisor.

[FR Doc. 98–1511 Filed 1–21–98; 8:45 am]

BILLING CODE 3410–FK–M

ARMS CONTROL AND DISARMAMENT AGENCY

Sunshine Act Meeting; Determination to Close Meetings of the Director's Advisory Committee

January 9, 1998.

The Director's Advisory Committee (DirAC) will hold meetings in Washington, D.C. on January 26–27 and April 6–7, 1998, and in Los Alamos, New Mexico on March 2, 1998.

The entire agenda of these meetings will be devoted to specific national security policy and arms control issues. In accordance with section 10(d) of the Federal Advisory Committee Act, Public Law No. 92–463, 86 Stat 770 (1972) (codified at 5 U.S.C. App. 2510(a)(1)(1996)), it has been determined that discussions during the meetings are likely to disclose matters covered under 5 U.S.C. 552b(c)(1).

Materials to be discussed at the meetings have been properly classified and are specifically authorized under criteria established by Executive Order 12958, 60 FR 19,825 (1995), to be kept secret in the interests of national defense and foreign policy.

Therefore, in accordance with section 10(d) of the Federal Advisory Committee Act, Public Law No. 92–463, 86 Stat 770 (1972) (codified at 5 U.S.C. App. 2 510(a)(1)(1996)), I have determined that, because of the need to protect the secrecy of such national security matters, the meetings should be closed to the public.

This notice is being published less than 15 days before the first meeting day, in order to enable more Committee members to attend.

John D. Holum,

Acting Under Secretary of State for Arms Control and International Security Affairs and Director, U.S. Arms Control and Disarmament Agency.

[FR Doc. 98–1657 Filed 1–20–98; 3:38 pm]

BILLING CODE 6820–01–M

DEPARTMENT OF COMMERCE

Bureau of the Census

[Docket No. 971231318–7318–01]

Establishing New Research Data Centers (RDCs)

AGENCY: Bureau of the Census, Commerce.

ACTION: Notice of program and request for proposals.

SUMMARY: This notice informs the public about the process and selection criteria available for establishing a limited number of new Research Data Centers (RDCs) at nonprofit organizations around the United States. Such organizations could include universities, nongovernmental research centers, and certain government facilities. The Census Bureau's Center for Economic Studies has developed and put into practice the concept of RDCs. At RDCs, qualified researchers may have access to microdata from Census Bureau economic (business establishment and firm) and demographic (household and individual) surveys with appropriate safeguards to protect data confidentiality.

DATES: Proposals can be submitted for the National Science Foundation (NSF) winter 1998 proposal review cycle, with a proposal submission deadline of March 1, 1998. Thereafter, proposals will be accepted for the August 15 and January 15 review cycles until further notice.

ADDRESSES: Written proposals to establish new RDCs should be submitted formally to the Division of Social, Behavioral, and Economic Research (SBER) at the NSF. Detailed information on proposal guidelines and review procedures is available on the NSF web site <http://www.nsf.gov>.

FOR FURTHER INFORMATION CONTACT: Arnold Reznek at (301) 457–1856 (areznek@census.gov), John Haltiwanger at (301) 457–1848 (jhaltiwa@census.gov), Cheryl Eavey (ceavey@nsf.gov), or Daniel Newlon (dnewlon@nsf.gov). Also see the Census Bureau's World Wide Web site (http://www.census.gov/ces/ces.html).

SUPPLEMENTARY INFORMATION: The Bureau of the Census is prepared to enter into partnerships with universities, nongovernmental research centers, and certain government facilities to establish a limited number of new RDCs around the United States. Written proposals to establish new RDCs will be reviewed and evaluated jointly by the Census Bureau and the NSF.

The RDC program now operates pilot RDCs in Boston (in partnership with the National Bureau of Economic Research) and in Pittsburgh (in partnership with Carnegie Mellon University). The Census Bureau and the National Center for Health Statistics also plan to establish a narrowly-focused RDC concerned with research using health data.

The RDC program has two major goals: (1) To use the results of the research carried out at the RDCs, and the contact between the Census Bureau and RDC researchers, to improve Census Bureau data programs, including data collection methodology and the underlying research microdatabases (benefit to the Census Bureau is required by the law authorizing the Census Bureau to enter into RDC arrangements, Title 15, United States Code, Section 1525); and (2) to promote academic research using microdata collected by the Census Bureau as part of its ongoing survey and census operations.

The Census Bureau data available at the RDCs would include both economic (business establishment and firm) data and demographic (household and individual) data collected in the Census Bureau's surveys and censuses. In particular cases, it may be possible to supplement these data with similar data from other governmental agencies.

A successful proposal from a research organization or a consortium of such organizations would have to demonstrate (1) the ability to work along with the Census Bureau to provide fair and objective access to researchers while protecting the confidentiality of the underlying microdata, (2) the existence of a regional research community of sufficient size and quality to yield high-quality research output, and (3) a sound plan for long-term funding that provides access to data users on a low-cost basis. The NSF's evaluation of the potential research output of proposed RDCs will be a key element in selection decisions.

The Census Bureau will enter into joint project Memoranda of Understanding (MOUs) with those organizations chosen by the evaluation process. The authority for the Census Bureau to enter into these MOUs is found in Title 15, United States Code, Section 1525.

Any MOU entered into under the authority of Title 15, United States Code, Section 1525 will include information relating to the mutual interest of the Census Bureau and its MOU partner(s) in establishing an RDC; the equitable apportionment of costs by the Census Bureau and its partner(s); the nonprofit status of the partner(s); and the mutuality of the benefit to be derived from the joint project.

RDC operations will emphasize the following elements: (1) A secure research computer laboratory (as certified by the Census Bureau) in which to store and use the data, (2) a research project selection and approval process carried out jointly with the Census Bureau, (3) at least one Census Bureau employee on-site to provide support and to help instill the Census Bureau's ''culture of confidentiality'' into the researchers at the RDC, (4) an executive director (or senior ''faculty advisor'') to act as a liaison between the local research community and the Census Bureau, and (5) an RDC review and oversight board to ensure efficient operation of the RDC, as well as fair and objective choice of projects at the RDC.

An overriding consideration in providing researchers with access to these data will be the need to protect the confidentiality of the underlying data pursuant to Title 13, United States Code, Section 9. In particular, prospective researchers will be required to submit detailed project descriptions that must be approved by both the RDC board and the Census Bureau. It is important to remember that RDCs are reserved for projects that involve statistical or econometric modeling using economic and demographic microdata. RDCs are neither equipped nor designed to supplement the Census

Bureau's existing data program operations by producing large-scale special tabulations from confidential Census Bureau microdata.

Once projects are approved, project researchers will be required to obtain Special Sworn Status from the Census Bureau. Obtaining this status requires researchers to undergo a security check, including fingerprinting. Researchers holding Special Sworn Status will be subject to the same criminal penalties as regular Census Bureau employees for disclosure of confidential information. (The penalties are a fine of up to $5,000, imprisonment for up to five years, or both.) Only persons with Special Sworn Status are allowed access to the RDC facility. Moreover, all research findings must be submitted to Census Bureau personnel for disclosure review prior to release to the public.

The estimate of the annual operating costs is $250,000 per year, with higher initial costs in the first year to equip the RDC. This estimate is based upon experience at the pilot RDCs and includes (1) costs at the RDC of equipment, software, space, and the salary of the Census Bureau employee stationed at the RDC, and (2) costs of supporting the RDC at Census Bureau headquarters.

RDCs must be self-financing, with funding coming from institutions, foundations, or state support. The NSF is prepared to provide seed money to assist in covering start-up costs associated with establishing RDCs. An organization proposing to establish an RDC can request from the NSF up to $100,000 per year for a three-year term to cover part of the start-up costs and annual operating costs associated with establishing the RDC. Determinations on these requests will be made by NSF.

RDCs may charge fees to researchers not supported by the NSF to help defray facilities costs. It is the goal of the NSF and the Census Bureau in establishing these centers that these fees will be kept low in order to promote widespread access to the data by the academic community, contingent on sufficient funding to cover annual operating costs. The NSF will continue to provide support through its regular grant competition for faculty time and graduate student assistance on individual research projects that use RDC facilities. NSF-funded individual research projects can be charged access fees once NSF institutional support has been phased out.

Proposals to establish RDCs must follow the standard NSF proposal format. They can be submitted for the NSF winter 1998 proposal review cycle, with a proposal submission deadline of March 1, 1998. Thereafter, proposals will be accepted for the August 15 and January 15 review cycles until further notice. The pace of expansion of RDCs will be limited by the capacity of the Census Bureau to provide adequate support and oversight. It is anticipated that up to four additional RDCs can be supported in the next two to three years.

Proposals should be formally submitted to the Division of Social, Behavioral, and Economic Research (SBER) at the NSF. Detailed information on proposal guidelines and review procedures is available on the NSF web site <http://www.nsf.gov>. Proposals will be reviewed jointly by relevant peer review panels, including Economics; Methodology, Measurement, and Statistics; and Sociology. Final decisions will be made jointly by the Census Bureau and the NSF.

A detailed prospectus is available on the Census Bureau World Wide Web site (http://www.census.gov/ces/ces.html). The prospectus gives more information on the expected contents of the proposal and the expected roles of both the Census Bureau and its partners in RDC operations, including costs. For more information, contact Arnold Reznek at (301) 457–1856 (areznek@census.gov), John Haltiwanger at (301) 457–1848 (jhaltiwa@census.gov), Cheryl Eavey (ceavey@nsf.gov), or Daniel Newlon (dnewlon@nsf.gov). Those who do not have web access may contact Kim Austin at (301) 457–1848 (kaustin@census.gov) to obtain a paper copy of the prospectus.

Notwithstanding any other provision of law, no person is required to respond, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid Office of Management and Budget (OMB) control number. The collection of information contained in the Notice is cleared under OMB Control Number 3145–0058.

It has been determined that this notice is not significant under Executive Order 12866.

Dated: January 12, 1998.

Bradford R. Huther,

Deputy Director and Chief Operating Officer, Bureau of the Census.

[FR Doc. 98–1504 Filed 1–21–98; 8:45 am]

BILLING CODE 3510–07–P

CONSUMER PRODUCT SAFETY COMMISSION

Notice of Approval of Guidance Document on Lead in Consumer Products

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of approval of guidance document on lead in consumer products.

SUMMARY: The Commission announces that it has approved a statement that provides guidance for manufacturers, importers, distributors, and retailers of consumer products that may contain lead.

FOR FURTHER INFORMATION CONTACT: Laura Washburn, Office of Compliance, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 504–0400, ext. 1452.

SUPPLEMENTARY INFORMATION:

The text of the guidance document is as follows:

Guidance for Lead (Pb) in Consumer Products

Summary

The U.S. Consumer Product Safety Commission issues this guidance to manufacturers, importers, distributors, and retailers to protect children from hazardous exposure to lead in consumer products.[1] The Commission identifies the major factors that it considers when evaluating products that contain lead, and informs the public of its experience with products that have exposed children to potentially hazardous amounts of lead.

To reduce the risk of hazardous exposure to lead, the Commission requests manufacturers to eliminate the use of lead that may be accessible to children from products used in or around households, schools, or in recreation. The Commission also recommends that, before purchasing products for resale, importers, distributors, and retailers obtain assurances from manufacturers that those products do not contain lead that may be accessible to children.

Hazard

Young children are most commonly exposed to lead in consumer products from the direct mouthing of objects, or from handling such objects and subsequent hand-to-mouth activity. The

[1] This guidance is not a rule. It is intended to highlight certain obligations under the Federal Hazardous Substances Act. Companies should read that Act and the accompanying regulations at 16 CFR part 1500 for more detailed information.

specific type and frequency of behavior that a child exposed to a product will exhibit depends on the age of the child and the characteristics and pattern of use of the product. The adverse health effects of lead poisoning in children are well-documented and may have long-lasting or permanent consequences. These effects include neurological damage, delayed mental and physical development, attention and learning deficiencies, and hearing problems. Because lead accumulates in the body, even exposures to small amounts of lead can contribute to the overall level of lead in the blood and to the subsequent risk of adverse health effects. Therefore, any unnecessary exposure of children to lead should be avoided. The scientific community generally recognizes a level of 10 micrograms of lead per deciliter of blood as a threshold level of concern with respect to lead poisoning. To avoid exceeding that level, young children should not chronically ingest more than 15 micrograms of lead per day from consumer products.

Guidance

Under the Federal Hazardous Substances Act (FHSA), 15 U.S.C. 1261(f)(1), household products that expose children to hazardous quantities of lead under reasonably foreseeable conditions of handling or use are ''hazardous substances.'' A household product that is not intended for children but which creates such a risk of injury because it contains lead requires precautionary labeling under the Act. 15 U.S.C. 1261(p). A toy or other article intended for use by children which contains a hazardous amount of lead that is accessible for children to ingest is a banned hazardous substance. 15 U.S.C. 1261(q)(1)(B). In evaluating the potential hazard associated with products that contain lead, the Commission staff considers these major factors on a case-by-case basis: the total amount of lead contained in a product, the bioavailability of the lead, the accessibility of the lead to children, the age and foreseeable behavior of the children exposed to the product, the foreseeable duration of the exposure, and the marketing, patterns of use, and life cycle of the product.

Paint and similar surface coatings containing lead have historically been the most commonly-recognized sources of lead poisoning among the products within the Commission's jurisdiction. The Commission has, by regulation, banned (1) paint and other similar surface coatings that contain more than 0.06% lead (''lead-containing paint''), (2) toys and other articles intended for use by children that bear lead-containing paint, and (3) furniture articles for consumer use that bear lead-containing paint. 16 CFR part 1303. In recent years, however, the Commission staff has identified a number of disparate products—some intended for use by children and others simply used in or around the household or in recreation—that presented a risk of lead poisoning from sources other than paint. These products included vinyl miniblinds, crayons, figurines used as game pieces, and children's jewelry.

In several of these cases, the staff's determination that the products presented a risk of lead poisoning resulted in recalls or in the replacement of those products with substitutes, in addition to an agreement to discontinue the use of lead in future production. The Commission believes that, had the manufacturers of these lead-containing products acted with prudence and foresight before introducing the products into commerce, they would not have used lead at all. This in turn would have eliminated both the risk to young children and the costs and other consequences associated with the corrective actions.

The Commission urges manufacturers to eliminate lead in consumer products to avoid similar occurrences in the future. However, to avoid the possibility of a Commission enforcement action, a manufacturer who believes it necessary to use lead in a consumer product should perform the requisite analysis before distribution to determine whether the exposure to lead causes the product to be a ''hazardous substance.'' If the product is a hazardous substance and is also a children's product, it is banned. If it is a hazardous household substance but is not intended for use by children, it requires precautionary labeling. This same type of analysis also should be performed on materials substituted for lead.

The Commission also notes that, under the FHSA, any firm that purchases a product for resale is responsible for determining whether that product contains lead and, if so, whether it is a ''hazardous substance.'' The Commission, therefore, recommends that, prior to the acquisition or distribution of such products, importers, distributors, and retailers obtain information and data, such as analyses of chemical composition or accessibility, relevant to this determination from manufacturers, or have such evaluations conducted themselves.

Dated: January 15, 1998.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 98–1456 Filed 1–21–98; 8:45 am]

BILLING CODE 6355–01–P

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meeting

TIME AND DATE: Wednesday, January 28, 1998, 10:00 a.m.

LOCATION: Room 420, East West Towers, 4330 East-West Highway, Bethesda, Maryland.

STATUS: Open to the Public.

MATTER TO BE CONSIDERED:

Bicycle Helmets

The Commission will consider options for a final safety standard for bicycle helmets.

For a recorded message containing the latest agenda information, call (301) 504–0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sadye E. Dunn, Office of the Secretary, 4330 East-West Highway, Bethesda, MD 20207 (301) 504–0800.

Dated: January 20, 1998.

Sadye E. Dunn,

Secretary.

[FR Doc. 98–1665 Filed 1–20–98; 2:25 pm]

BILLING CODE 6355–01–M

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Public Notice of Availability of the Draft Supplemental Environmental Impact Statement for the Limited Reevaluation Study for the Deepening of the Arthur Kill-Howland Hook Marine Terminal Navigation Channels

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

ACTION: Correction.

SUMMARY: In previous **Federal Register** notice (Vol. 62, No. 196, pages 52698–52699) Thursday, October 9, 1997, make the following correction:

On page 52698, in column 3, line 34, the sentence ''Comments will be accepted for forty-five (45) days after publishing of this notice.'' should be deleted. Unfortunately, the DSEIS, previously experienced publishing delays which resulted in the document not being readily available for public comment at the time when the previous

notice was published in the **Federal Register.** The DSEIS however, is not available for public review and comment. The revised comment period will commence on the publication date of this notice for forty five (45) days and end on the date indicated below.

DATES: Comments must be received not later than March 9, 1998.

ADDRESSES: The DSEIS may be obtained from the Army Corps of Engineers, Planning Division, 26 Federal Plaza, New York, NY 10278–0090.

FOR FURTHER INFORMATION CONTACT: Ms. Jenine Gallo, Project Biologist, CENAN–PL–EA, Corps of Engineers, New York District, 26 Federal Plaza, NY, NY 10278–0090, Tel. 212–264–4549.

SUPPLEMENTARY INFORMATION: None.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 98–1488 Filed 1–21–98; 8:45 am]

BILLING CODE 3710–06–M

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Notice of Addendum to the Atlantic Coast of Long Island, From Fire Island Inlet to Montauk Point, New York (Reach 1-Fire Island Inlet to Moriches Inlet Interim Plan for Storm Damage Protection)

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

ACTION: Notice of intent.

SUMMARY: In previous **Federal Register** notice (Vol. 62, No. 228, pages 63134–63135) Wednesday, November 26, 1997, subject notice was published to provide an opportunity for public comment during the public scoping phase of the project. Based on comments received by this office, certain changes are required to the document and are provided in the **SUPPLEMENTARY INFORMATION** paragraph.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen A. Couch, Study Manager, (212) 264–9077; Mr. Peter M. Weppler, EIS Coordinator, (212) 264–4663; Planning Division, Corps of Engineers, New York District, 26 Federal Plaza, New York, New York 10278–0090.

SUPPLEMENTARY INFORMATION: On page 63134, in column 3, last paragraph, revise Section 1 to read:

1. Location of Proposed Action

The project area is located entirely in Suffolk County, Long Island, New York, along the Atlantic and bay-shore of the towns of Babylon, Islip, and Bookhaven. The study area includes Great South Bay, which is connected to the Atlantic Ocean through Fire Island Inlet, a federal navigation channel. Great South Bay is connected to Moriches Bay by a narrow channel behind the barrier island. The westernmost portion of the study area, Fire Island Inlet, is located approximately 52 miles by water east of the Battery, New York. The project area includes the Atlantic Ocean and Great South Bay, Fire Island, Moriches Inlet, barrier beaches, the mainland of Long Island fronted by Fire Island, as well as suitable offshore borrow areas that will supply material for beach construction and replenishment. The study area is approximately 30 miles long. The lands and waters within the proposed project area are owned by various interests and are subject to various uses. The Federal Government (Department of the Interior, National Park Service (NPS)) has jurisdiction over approximately 26 miles of the area included within the boundaries of the Fire Island National Seashore (FINS). The New York State government has jurisdiction over Robert Moses State Park (Office of Parks, Recreation and Historic Preservation), tidal waters (bays) (Department of Environmental Conservation) and submerged lands offshore to the three-mile limit (Department of State). The Suffolk County government (Department of Parks and Recreation) has jurisdiction over county parks located at Smith Point and Moriches Inlet. Most of the remaining land is held by private landowners located in Towns of Babylon, Brookhaven, and Islip and Villages of Ocean Beach and Saltaire. There are 17 ''exempted'' and 3 Seashore District (non-exempted) communities within the boundaries of FINS. An exempted community is one that is defined by the 1964 FINS Enabling Legislation (Pub. L. 88–587), and described by the Federal Zoning Regulations, 36 CFR part 28, as falling within the boundaries of the Community Development District. The Seashore District is comprised of all portions of the lands and waters within the boundary of FINS, which are not included in the Community Development District, comprising all private and public developments. The improved private properties in either district are exempted from the acquisition authority of the Secretary of the Interior, as long as the development conforms to all local and federal zoning requirements at the time of construction. There are five NPS facilities on Fire Island under the jurisdiction of FINS. They are: the Lighthouse Area, Sunken Forest/Sailors Haven, Talisman, Watch Hill, and Smith Point.

On page 63135, in column 1, first paragraph, revise Section 2 to read:

2. Description of Potential Interim Alternatives

No Federal Action

The No Federal Action alternative for this proposed project means that no interim measures would be taken by the Federal government to provide storm damage protection in the study area. Other entities (State and local agencies, private interests, etc.) could undertake measures intended to prevent or minimize further storm damage and the Federal Government could proceed with the Reformulation Study. For evaluation of the interim project, the No-Action alternative recognizes that the Breach Contingency Plan is in place, and that any breach of the barrier island that may occur within this area would be closed using the authority provided by the Breach Contingency Plan.

3. Non-Structural Alternatives

Buy-Out Plan/Land Use Regulations/ Flood-Proofing

A buyout plan would include the permanent evacuation of areas within the floodplain subject to erosion or inundation, including the mainland and barrier island. This would involve the acquisition of land and structures either by purchase or by exercising the power of eminent domain. Following this action, structures in the affected areas could be demolished or relocated. Other potential land use regulations may include a range of management techniques, including zoning, subdivision regulations, building codes, and setback ordinances. Other flood-proofing strategies include raising structures or providing walls or floodshields around structures, in addition to relocations.

4. Beach Nourishment Alternatives

Beach nourishment involves the placement of sand extracted from an offshore borrow source onto an eroding shoreline to restore its form and to provide an adequate protective beach. A beach fill plan typically includes a berm (that slopes to the sea floor) backed by a dune. Together, the dune and the berm combine to prevent erosion and inundation damages to leeward areas. Beach nourishment requires the periodic placement of sand to offset erosion of the beach fill in order to maintain the designed level of protection.

a. Modified Authorized Plan w/o Groins

This alternative would involve widening the beaches along the project area to a minimum of 100 ft with an elevation of +11 ft NGVD, and raising the dunes to an elevation of +20 ft NGVD, with a minimum dune crest width of 25 ft. Certain very low zones of the project area will have a berm elevation of +13 ft NGVD. The proposed dune slopes are 1V:5H, and the design berm slopes are to be 1V:15H to Mean Low Water (MLW), and 1V:30H below MLW.

b. Beach Nourishment (Option A)—Fill in Wilderness Area

This alternative consists of beachfill with a minimum berm width of 90 feet (ft) at elevation +9.5 ft NGVD, and a minimum 25-ft wide dune at elevation +15 ft NGVD. Proposed dune and berm slopes are 1V:5H to MLW, and 1V:30H below MLW. Different specifications would be required between Kismet and Point O'Woods and in the Federal Wilderness Area. The berm and dune elevations from Kismet to Point O'Woods would be increased to +11.5 ft. NGVD and +18 ft NGVD, respectively. These increased elevations would be required to provide a 44-year level of protection due to extremely low elevations north of the dune in these areas.

c. Beach Nourishment (Option B)—Feeder Beach w/Stockpile at Smith Point

This alternative would require the use of a feeder beach and stockpiling sand at Smith Point County Park. While offering some protection, these measures are not likely to provide a 44-year level of protection.

On page 63135, column 1, last paragraph, Section 4(b), revised the first two sentences to read:

A scoping meeting was held on December 4, 1997 at the Holiday Inn Macarthur Airport, Ronkonkoma. If more public meetings are found to be needed, public notices shall be issued at a later date containing the dates, times and places of the scoping meetings.

On page 63135, column 1, end of the last paragraph, Section 4(b), add the following sentence:

The scoping period has been extended to 30 days from the date of this notice's appearance in the **Federal Register**.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 98–1487 Filed 1–21–98; 8:45 am]

BILLING CODE 3710–06–M

DEPARTMENT OF DEFENSE

Uniformed Services University of the Health Sciences

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Uniformed Services University of the Health Sciences.

TIME AND DATE: 8:30 a.m. to 2:30 p.m., February 9, 1998.

PLACE: Uniformed Services University of the Health Sciences, Board of Regents Conference Room (D3001), 4301 Jones Bridge Road, Bethesda, MD 20814–4799.

STATUS: Open-under ''Government in the Sunshine Act'' (5 U.S.C. 552b(e)(3)).

MATTERS TO BE CONSIDERED:

8:30 a.m. Meeting—Board of Regents

(1) Approval of Minutes—November 3, 1998
(2) Faculty Matters
(3) Departmental Reports
(4) Financial Report
(5) Report—President, USUHS
(6) Report—Dean, School of Medicine
(7) Report—Dean, Graduate School of Nursing
(8) Comments—Chairman, Board of Regents
(9) New Business

CONTACT PERSON FOR MORE INFORMATION: Mr. Bobby D. Anderson, Executive Secretary of the Board of Regents, (301) 295–3116.

Dated: January 16, 1998.

Linda Bynum,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–1578 Filed 1–16–98; 4:43 pm]

BILLING CODE 5000–04–M

DELAWARE RIVER BASIN COMMISSION

Notice of Commission Meeting and Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, January 28, 1998. The hearing will be part of the Commission's regular business meeting which is open to the public and scheduled to begin at 1:00 p.m. in the Goddard Conference Room of the Commission's offices at 25 State Police Drive, West Trenton, New Jersey.

A presentation on the Commission's retreat process will be held at 11:00 a.m. at the same location. In December 1995 the Commission conducted a retreat to examine the agency and its future. The process progressed through interviews with key constituents; an extensive constituent survey; a niche selection process and preparation of a vision and mission statement entitled ''Charting the Future'', adopted by the Commission on December 17, 1997. The results of the retreat process and next steps will be reviewed at this presentation. A ''Summary of Delaware River Basin Commission Retreat Process'' and ''Charting the Future'' are available upon request by contacting Susan M. Weisman at (609) 883–9500 ext. 203.

In addition to the subjects listed which are scheduled for public hearing at the 1:00 p.m. business meeting, the Commission will also address the following: Minutes of the December 17, 1997 business meeting; announcements; General Counsel's Report; report on Basin hydrologic conditions; a resolution to adopt the current expense and capital budgets for Fiscal Year 1999; a resolution to designate the Chair of the Flow Management Technical Advisory Committee as the Chair at meetings of the Parties to the 1954 U.S. Supreme Court Decree concerning drought-related resolutions; a resolution to amend the Ground Water Protected Area Regulations for Southeastern Pennsylvania by the establishment of numerical withdrawal limits for Protected Area subbasins; and public dialogue. A ''Response Document on Proposed Amendments to the Southeastern Pennsylvania Ground Water Protected Area Regulations'' is also available upon request by contacting Ms. Weisman at the number provided above.

The subjects of the hearing will be as follows:

Applications for Approval of the Following Projects Pursuant to Article 10.3, Article 11 and/or Section 3.8 of the Compact

1. Portland Borough Authority D–97–29 CP

An application for approval of a ground water withdrawal project to supply up to 5.18 million gallons (mg)/30 days of water to the applicant's distribution system from new Well No. 3, and to increase the existing withdrawal limit from all wells to 5.7 mg/30 days. The project is located in Upper Mount Bethel Township, Northampton County, Pennsylvania.

2. Pennsylvania Power & Light Company D–97–37

A project to construct two 12-kilowatt aerial power line crossings: one on a reach of the Schuylkill River and one on a reach of the Little Schuylkill River near their confluence. Both crossings are on reaches of the rivers designated as Scenic Rivers by the Pennsylvania

Department of Conservation and Natural Resources and included in the DRBC Comprehensive Plan. The proposed power line will provide service to an existing commercial enterprise in Port Clinton, Schuylkill County, Pennsylvania. The line will cross on poles located near two bridges; one just upstream of a railroad bridge over the Schuylkill River between Tilden Township, Berks County and Port Clinton Borough, Schuylkill County, and one at the Broad Street Bridge over the Little Schuylkill River in Port Clinton Borough.

3. Glen Mills Schools D–97–39

A surface water withdrawal project to provide a monthly average of 367,000 gallons per day (gpd) (11 mg/30 days) for irrigation of the proposed 18-hole Golf Course at Glen Mills located in Thornbury Township, Delaware County, Pennsylvania. The applicant proposes to withdraw water from Chester Creek and, if needed to supplement flow, from two existing on-site wells (averaging less than 100,000 gpd).

4. American Cyanamid Company D–97–41

A project to upgrade an existing 120,000 gpd average monthly capacity industrial wastewater treatment plant (IWTP) located at the applicant's Agricultural Research Division facilities at U.S. Route 1 and Quakerbridge Road in West Windsor Township, Mercer County, New Jersey. The IWTP will continue to provide secondary biological treatment utilizing an extended aeration activated sludge process. Tertiary filtration will be provided as well as ultraviolet disinfection prior to discharge via an aeration cascade to an unnamed tributary of the Assunpink Creek. The applicant's facilities are located on property that straddles the Delaware River Basin divide and a major portion of the applicant's water source is obtained from wells located outside the Delaware River Basin. However, the applicant proposes a high overall BOD removal rate (98 percent) that will offset the imported load.

5. City of Bethlehem Authority D–97–47 CP

A proposed temporary emergency surface water withdrawal project that entails installation of an intake structure in the Beltzville Reservoir, just downstream of the confluence of Pohopoco Creek with the Reservoir's backwater, in Towamensing Township, Carbon County, Pennsylvania. The withdrawal is planned to provide an average of 15 million gallons per day during a three-year period while the applicant's Penn Forest Dam is undergoing reconstruction and refilling. The applicant's distribution system serves the City of Bethlehem and 11 other municipalities in its vicinity, in both Lehigh and Northampton Counties. Documents relating to these items may be examined at the Commission's offices. Preliminary dockets are available in single copies upon request. Please contact Thomas L. Brand at (609) 883–9500 ext. 221 concerning docket-related questions. Persons wishing to testify at this hearing are requested to register with the Secretary at (609) 883–9500 ext. 203 prior to the hearing.

Dated: January 12, 1998.

Susan M. Weisman,

Secretary.

[FR Doc. 98–1416 Filed 1–21–98; 8:45 am]

BILLING CODE 6360–01–P

DEPARTMENT OF EDUCATION

National Awards Program for Model Professional Development; Notice of New Application Deadline for Certain Applicants for Fiscal Year (FY) 1998

SUMMARY: The Secretary establishes a new deadline for the submission of applications under the National Awards Program for Model Professional Development for FY 1998 by those schools and school districts in areas of Maine, New Hampshire, New York and Vermont that the President or the governors of those States have declared disaster areas because of the severe ice storms that occurred during the week of January 5, 1998, as well as to schools and the school district on the Island of Guam.

NEW DEADLINE FOR TRANSMITTAL OF APPLICATIONS: The new deadline for the Department's receipt of applications from these schools and school districts is January 26, 1998. In addition, the Secretary will consider, on a case-by-case basis, a written request received by January 26, 1998, for a further extension of the application deadline for any school or school district in these affected areas that confirm an inability to meet this new application deadline because of continued storm-related disruptions.

SUBMITTING APPLICATIONS OR EXTENSION REQUESTS: Application to the National Awards Program or written requests for an extension of the application deadline beyond January 26, 1998, must be sent to Sharon Horn, Office of Educational Research and Improvement, U.S. Department of Education, 555 New Jersey Avenue, NW., Room 506E, Washington, DC 20208–5644. Telephone: 202–219–2203.

To obtain information on the program, call or write Sharon Horn at the address and telephone number identified above. Inquiries also may be sent by e-mail to sharon__horn@ed.gov or by FAX at (202) 219–2198. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, between 8 a.m. and 8 p.m.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

Individuals with disabilities may obtain a copy of the application package in an alternate format, also, by contacting that person. However, the Department is not able to reproduce in an alternate format the standard forms included in the application package.

SUPPLEMENTARY INFORMATION: On October 30, 1997, the Secretary announced in the **Fedeal Register** (62 FR 58874) the National Awards Program For Model Professional Development for FY 1998. This program recognizes a variety of schools and school districts with model professional development activities in the pre-kindergarten through twelfth grade levels that have led to increases in student achievement. The notice inviting applications for the program (62 FR 58874), which accompanied the notice of eligibility and selection criteria for the program, identified the deadline for transmittal of applications as January 15, 1998. During the week of January 5, 1998, portions of the States of Maine, New Hampshire, New York and Vermont experienced extraordinarily severe ice storms that extinguished electric service and caused major disruptions to school communities in these areas. In addition, the Secretary has learned that the school community on the Island of Guam is only now reopening on a part-time basis as a result of a severe typhoon that struck, the island on December 16, 1997.

The Secretary is concerned that because of these circumstances schools and school districts in these affected areas that wish to apply for recognition under the National Awards Program may be prevented from doing so by the previously announced application deadline. For this reason, the Secretary extends the deadline for transmittal of applications under the National Awards Program until January 26, 1998, for those schools and school districts in the States of Maine, New Hampshire, New York and Vermont that the President or

the governors of those States have declared to be disaster areas, as well as for schools and the school district on Guam. Since it is impossible to predict whether continued disruptions in utility service will preclude the submission of applications by January 26, 1998, the Secretary also will consider, on a case-by-case basis, a written request received by January 26, 1998, for a further extension of the application deadline for any school or school district in these affected areas that confirms its inability to meet the January 26 application deadline because of continued storm-related disruptions.

ELECTRONIC ACCESS TO THIS DOCUMENT: Anyone may view this document, as well as all other Department of Education documents published in the **Fedeal Register**, in text or portable document format (pdf) on the World Wide Web at either of the following sites:

http://ocfo.ed.gov/fedreg.htm
http://www.ed.gov/news.html

To use the pdf you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the previous sites. If you have questions about using the pdf, call the U.S. Government Printing Office toll free at 1–888–293–6498.

Anyone may also view these documents in text copy only on an electronic bulletin board of the Department. Telephone: (202) 219–1511 or, toll free, 1–800–222–4922. The documents are located under Option G—Files/Announcements, Bulletins and Press Releases.

Note: The official version of a document is the document published in the **Federal Register.**

Program Authority: 20 U.S.C. 8001.

Dated: January 16, 1998.

Ricky T. Takai,

Acting Assistant Secretary for Educational Research and Improvement.

[FR Doc. 98–1549 Filed 1–16–98; 5:03 am]

BILLING CODE 4000–01–M

DEPARTMENT OF EDUCATION

Submission of Data by State Educational Agencies

AGENCY: Department of Education.

ACTION: Notice of dates of submission of State revenue and expenditure reports for fiscal year 1997 and of revisions to those reports.

SUMMARY: The Secretary of Education announces dates for the submission by State educational agencies (SEAs) of expenditure and revenue data and average daily attendance statistics on ED Form 2447 (the National Public Education Financial Survey) for fiscal year (FY) 1997. The Secretary sets these dates to ensure that data are available to serve as the basis for timely distribution of Federal funds. The U.S. Bureau of the Census is the data collection agent for the Department's National Center for Education Statistics (NCES). The data will be published by NCES and will be used by the Secretary in the calculation of allocations for FY 1999 appropriated funds.

DATES: The date on which submissions will first be accepted is March 15, 1998. The mandatory deadline for the final submission of all data, including any revisions to previously submitted data, is September 8, 1998.

ADDRESSES: SEAs may mail ED Form 2447 to: Bureau of the Census, ATTENTION: Governments Division, Washington, DC 20233–6800.

Alternatively, SEAs may hand deliver submissions to: Governments Division, Bureau of the Census, 8905 Presidential Parkway, Washington Plaza II, Room 508, Upper Marlboro, MD, by 4 p.m., Eastern time, Monday through Friday.

If an SEA's submission is received by the Bureau of the Census after September 8, in order for the submission to be accepted, the SEA must show one of the following as proof that the submission was mailed on or before the mandatory deadline date:

1. A legibly dated U.S. Postal Service postmark.
2. A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.
3. A dated shipping label, invoice, or receipt from a commercial carrier.
4. Any other proof of mailing acceptable to the Secretary.

If the SEA mails ED Form 2447 through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

1. A private metered postmark.
2. A mail receipt that is not dated by the U.S. Postal Service.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an SEA should check with its local post office.

FOR FURTHER INFORMATION CONTACT: Mr. Lawrence R. MacDonald, Chief, Bureau of the Census, ATTENTION: Governments Division, Washington, DC 20233–6800. Telephone: (301) 457–1574. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Individuals with disabilities may obtain this notice in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to: Frank Johnson, National Center for Education Statistics, U.S. Department of Education, 555 New Jersey Avenue, N.W., Room 410E, Washington, DC 20208–5651.

SUPPLEMENTARY INFORMATION: Under the authority of section 404(a) of the National Education Statistics Act of 1994 (20 U.S.C. 9003(a)), which authorizes NCES to gather data on the financing of education, NCES collects data annually from SEAs through ED Form 2447. The report from SEAs includes attendance, revenue, and expenditure data from which NCES determines the average State per pupil expenditure (SPPE) for elementary and secondary education.

In addition to using the SPPE data as useful information on the financing of elementary and secondary education, the Secretary uses these data directly in calculating allocations for certain formula grant programs, including Title I of the Elementary and Secondary Education Act of 1965, as amended by the Improving America's Schools Act of 1994 (Title I), Impact Aid, and Indian Education. Other programs such as the Goals 2000: Educate America Act, the Technology Literacy Challenge Fund, the Education for Homeless Children and Youth Program under Title VII of the Stewart B. McKinney Homeless Assistance Act, the Dwight D. Eisenhower Professional Development Program, and the Safe and Drug-Free Schools and Communities Program make use of SPPE data indirectly because their formulas are based, in whole or in part, on State Title I allocations.

In January 1998, the Bureau of the Census, acting as the data collection agent for NCES, will mail to SEAs ED Form 2447 with instructions and request that SEAs submit data to the Bureau of the Census on March 15, 1998, or as soon as possible thereafter. SEAs are urged to submit accurate and complete data on March 15, or as soon as possible thereafter, to facilitate timely processing. Submissions by SEAs to the Bureau of the Census will be checked for accuracy and returned to each SEA for verification.

Having accurate information, on time, is critical to an efficient and fair allocation process, as well as the NCES statistical process. To ensure timely distribution of Federal education funds based on the best, most accurate data available, NCES establishes, for allocation purposes, September 8, 1998,

as the final date by which ED Form 2447 must be submitted. However, if an SEA submits revised data after the final deadline that results in a lower SPPE figure, its allocations may be adjusted downward or the Department may request the SEA to return funds. SEAs should be aware that all of these data are subject to audit and that, if any inaccuracies are discovered in the audit process, the Department may seek recovery of overpayments for the applicable programs. If an SEA submits revised data after September 8, the data may also be too late to be included in the final NCES published dataset.

Electronic Access to This Document

Anyone may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or portable document format (pdf) on the World Wide Web at either of the following sites:

http://ocfo.ed.gov/fedreg.htm
http://www.ed.gov/news.html

To use the pdf you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the previous sites. If you have questions about using the pdf, call the U.S. Government Printing Office toll free at 1–888–293–6498.

Anyone may also view these documents in text copy only on an electronic bulletin board of the Department. Telephone: (202) 219–1511 or, toll free, 1–800–222–4922. The documents are located under Option G—Files/Announcements, Bulletins and Press Releases.

Note: The official version of a document is the document published in the **Federal Register**.

Authority: 20 U.S.C. 9003(a).

Dated: January 15, 1998.

Ricky T. Takai,

Acting Assistant Secretary for Educational Research and Improvement.

[FR Doc. 98–1505 Filed 1–21–98; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Idaho Operations Office; Notice of Intent to Solicit Applications for Financial Assistance Awards

AGENCY: Department of Energy.

ACTION: Notice of solicitation for financial assistance number DE–PS07–98ID13605—Advanced Drilling Systems Research.

SUMMARY: The U.S. Department of Energy's Office of Geothermal Technologies, Advanced Drilling Systems Research Program, via the Idaho Operations Office (DOE–ID), is seeking applications for cost-shared cooperative agreements for industry-government Research & Development projects to develop advanced drilling technologies and transfer the results to industry. These new developments can then be used by the U.S. geothermal industry to solve technical problems.

DATES: The anticipated issuance date of Solicitation No. DE–PS07–98ID13605 is January 26, 1998. A copy of the solicitation in its full text can be found at the following Internet address: *http://www.inel.gov/doeid/solicit.html* under ACurrent Solicitations.@ Also, application packages and instructions (including all required forms, certifications and assurances) are available at this website. The website is the agency preferred method for interested parties to obtain the solicitation and application information. Interested parties requiring hardcopies should request them in writing (preferably via e-mail) from the Contracting Officer below. The website will be the official notification medium for any possible changes in the solicitation. All interested parties should monitor the website during the application period.

ADDRESSES: Applications shall be submitted to: Mr. Michael K. Barrett, Contracting Officer, U.S. Department of Energy, Idaho Operations Office, 850 Energy Drive, Mail Stop 1221, Idaho Falls, ID 83401–1563, e-mail: *barretmk@inel.gov*, Tele: (208) 526–5743, Fax: (208) 526–5548.

FOR FURTHER INFORMATION CONTACT: Michael K. Barrett, Contracting Officer at (208) 526–5743 or Willetia Amos, Program Manager at (208) 526–4097; U.S. Department of Energy, Idaho Operations Office, 850 Energy Drive, Mail Stop 1221, Idaho Falls, ID 83401–1563.

SUPPLEMENTARY INFORMATION: The solicitation will be issued pursuant to 10 CFR 600.6(a) with no eligibility restrictions. The statutory authority for the issuance of this solicitation is Public Law 93–410, the Geothermal Energy Research, Development & Demonstration Act of 1974. The catalog of Federal Domestic Assistance Number for this program is 81.087.

This notice is also intended to promote the formation of industry partnerships, to stimulate interaction among potential participants, and to encourage organizations to investigate creative solutions. Funding for phase I will be available to support several awards for a period of approximately six to twelve months. Funding for phase II will be available to support one or more awards, for a period of 12–24 months. Applications may include Federally Funded Research and Development Centers, but only as lower tier participants with funding for their expected costs provided through their existing arrangements with the Government.

Issued in Idaho Falls, ID January 14, 1998.

Michael L. Adams,

Acting Director, Procurement Services Division.

[FR Doc. 98–1503 Filed 1–21–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR98–4–000]

AOG Gas Transmission Company, L.P.; Notice of Petition for Rate Approval

January 15, 1998.

Take notice that on January 6, 1998, AOG Gas Transmission Company, L.P. (AOGGT) filed pursuant to Section 284.123(b)(2) of the Commission's Regulations, a petition for rate approval requesting that the Commission approve its existing system-wide rates of $0.0019 per Mmbtu applicable to transportation service rendered from its system in the state of Oklahoma, and $0.1023 per Mmbtu applicable to transportation service rendered from its system in the state of New Mexico. These rates will be applicable to the transportation of natural gas under Section 311(a)(2) of the Natural Gas Policy Act of 1978 (NGPA).

Pursuant to Section 284.123(b)(2)(ii), if the Commission does not act within 150 days of the date of this filing, the rates will be deemed to be fair and equitable and not in excess of an amount which interstate pipelines would be permitted to charge for similar transportation service. The Commission may, prior to the expiration of the 150 day period, extend the time for action or institute a proceeding to afford parties an opportunity for written comments and for the oral presentation of views, data and arguments.

Any person desiring to participate in this proceeding must 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 on or before January 30, 1998. Copies of this petition are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–1449 Filed 1–21–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM98–5–23–000]

Eastern Shore Natural Gas Company, Notice of Proposed Changes in FERC Gas Tariff

January 15, 1998.

Take notice that on January 8, 1998, Eastern Shore Natural Gas Company (ESNG) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, certain revised tariff sheets in the above captioned docket with proposed effective dates of January 1, 1998 and February 1, 1998, respectively.

ESNG states that the purpose of the instant filing is to track rate changes attributable to storage service purchased from Columbia Gas Transmission Corporation (Columbia) under its Rate Schedules SST and FSS the costs of which are included in the rates and charges payable under ESNG's Rate Schedule CFSS. This tracking filing is being made pursuant to Section 3 of ESNG's Rate Schedule CFSS.

ESNG states that copies of the filing have been served upon its jurisdictional customers and interested State Commissions.

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, NE., Washington, DC 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 as provided in Section 154.210 of the 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–1438 Filed 1–21–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–147–005]

Equitrans, L.P.; Notice of Proposed Changes in FERC Gas Tariff

January 15, 1998.

Take notice that on January 13, 1998, Equitrans, L.P. (Equitrans) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following revised tariff sheets to become effective September 1, 1997:

Second Substitute Third Revised Sheet No. 220
Second Substitute Second Revised Sheet No. 220A
Second Substitute Second Revised Sheet No. 220B

Equitrans states that the proposed tariff sheets are submitted in compliance with the Order on Rehearing and Clarification issued by the Federal Energy Regulatory Commission (Commission) on December 29, 1997 in Docket No. RP96–147–002. Equitrans states that the Commission required Equitrans to file revised tariff sheets to impose late winter storage withdrawal limitations or ''ratchets'' on Equitrans' open-access base load storage Rate Schedule 115SS.

Equitrans states that it has included revisions to Section 9.3 of its General Terms and Conditions to provide that late season storage withdrawal ratchets will apply to all firm Part 284 storage services including Rate Schedule 115SS. Equitrans states that the inventory levels at which ratchets may be applied and the application of ratchets based on each individual Part 284 customer's percentage of TASQ which remains in storage under each individual Rate Schedule remains unchanged from the methodology previously approved by the Commission.

Any person desiring to protest the filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules of Practice and Procedure. All such protests should be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining appropriate action, 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–1447 Filed 1–21–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–142–007]

K N Interstate Gas Transmission Co.; Notice of Filing

January 15, 1998.

Take notice that on January 9, 1998, K N Interstate Gas Transmission Co. (KNI) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1–B, the following revised tariff sheets, to be effective October 1, 1997:

Second Revised Sheet No. 36
Second Revised Sheet No. 89

On April 17, 1997, K N Interstate Gas Transmission Co. (KNI) submitted a compliance filing which was subsequently approved by the Commission in Docket No. RP97–142. Included within this compliance filing were First Revised Sheet Nos. 36 and 89. It has since been determined that pagination and language problems exist with the above referenced sheets. Therefore, KNI is submitting Second Revised Sheet No. 36 and Second Revised Sheet No. 89 to correct the pagination and language problems.

KNI states that copies of this filing were served upon KNI's jurisdictional customers, interested public, bodies, and all parties to the proceedings.

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 as provided in Section 154.210 of the Commission's Regulations. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–1445 Filed 1–21–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM97–3–25–003]

Mississippi River Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

January 15, 1998.

Take notice that on January 13, 1998, Mississippi River Transmission Corporation (MRT) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the tariff sheets listed below to be effective February 12, 1998.

Twenty-Ninth Revised Sheet No. 5
Twenty-Ninth Revised Sheet No. 6
Twenty-Sixth Revised Sheet No. 7

MRT states that the purpose of the instant filing is to remove the Miscellaneous Revenue Flowthrough Adjustment credit from MRT's base tariff rates under Rate Schedules FTS, SCT, and ITS.

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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–1439 Filed 1–21–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP98–8–003; and RP96–199–010]

Mississippi River Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

January 15, 1998.

Take notice that on January 13, 1998, Mississippi River Transmission Corporation (MRT) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the tariff sheets listed below.

Substitute Twenty-Sixth Revised Sheet No. 5
Substitute Twenty-Sixth Revised Sheet No. 6
Substitute Twenty-Seventh Revised Sheet No. 5
Substitute Twenty-Seventh Revised Sheet No. 6
Substitute Twenty-Eighth Revised Sheet No. 5
Substitute Twenty-Eighth Revised Sheet No. 6

MRT states that the purpose of the instant filing is to correct an administrative oversight in the Gas Supply Realignment Costs (GSRC) charge on Authorized Overrun Service (AOS) for Rate Schedules FTS and SCT.

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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–1442 Filed 1–21–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–272–005]

Northern Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

January 15, 1998.

Take notice that on January 7, 1998, Northern Natural Gas Company (Northern) tendered for filing to become part of Northern's FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheet, proposed to become effective on January 8, 1998:

Third Revised Sheet No. 66

Northern states that the above sheet is being filed to implement a specific negotiated rate transaction in accordance with the Commission's Policy Statement on Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines.

Northern states that copies of the filing were served upon Northern's customers and interested State Commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, 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 in this proceeding, 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 inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–1446 Filed 1–21–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT98–12–000]

PG&E Gas Transmission, Northwest Corporation; Notice of Refund Report

January 15, 1998.

Take notice that on January 9, 1998, PG&E Gas Transmission Northwest Corporation (PG&E GT–NW), formerly Pacific Gas Transmission Company, tendered for filing a Refund Report for interruptible transportation revenue credits on its Coyote Springs Extension.

PG&E GT–NW states that it refunded $1,718.35 to Portland General Electric Company, the sole eligible firm shipper on the Coyote Springs Extension, through a credit billing adjustment on December 11, 1997.

PG&E GT–NW further states that a copy of this filing has been served on all affected customers and interested state regulatory agencies.

Any person desiring to be heard or 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 Sections 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such motions or protests must be filed on or before January 23, 1998. 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–1450 Filed 1–21–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–1252–000]

Southern California Edison Company; Notice of Filing

January 14, 1998.

Take notice that on December 30, 1997, Southern California Edison Company (Edison) tendered for filing the Edison-Southern California Water Company 1997 Restructuring Agreement) between Edison and the Southern California Water Company (SCWC), and a Notice of Cancellation of various rate schedules applicable to SCWC. Included in the Restructuring Agreement as Appendices A, B, C, and D are: Amendment No. 1 to the Agreement For Services, Amendment No. 1 to the Control Area Import Agreement, Amendment No. 1 to the Transmission Service Agreement, and the Wholesale Distribution Access Tariff Service Agreement.

The Restructuring Agreement, including all of its Appendices, are the result of negotiations between Edison and SCWC to modify existing agreements to accommodate the emerging Independent System Operator/Power Exchange market structure. The Restructuring Agreement simplifies the existing operational arrangements between Edison and SCWC.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

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, DC, 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before January 30, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–1437 Filed 1–21–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP95–112–022]

Tennessee Gas Pipeline Company; Notice of Compliance Filing

January 15, 1998.

Take notice that on January 9, 1998, Tennessee Gas Pipeline Company (Tennessee), tendered for filing as part of its FERC Gas Tariff, the following tariff sheets, with an effective date of January 1, 1998:

Fifth Revised Volume No. 1
Tenth Revised Sheet No. 26
Tenth Revised Sheet No. 26A
Eighteenth Revised Sheet No. 26B

Original Volume No. 2
Thirty-Fourth Revised Sheet No. 5

Tennessee states that this filing is in compliance with the Stipulation and Agreement approved by the Commission in its October 30, 1996 Order on Contested Settlement in the above-referenced docket. Tennessee Gas Pipeline Company, 77 FERC ¶ 61,083 (1996), reh'g denied, 78 FERC ¶ 61,069 (1997). Tennessee requests waiver of the Commission's thirty-day notice requirement to allow an effective date of January 1, 1998 for the tariff sheets. Tennessee submits that good cause exists for the waiver because: (1) The proposed tariff sheets represent a reduction in customers' existing rates; (2) all of Tennessee's customers were informed of the rates since such rates were set forth in the Stipulation and Agreement; and (3) the Commission previously approved implementation of the rates, effective January 1, 1998, in its orders approving the Stipulation and Agreement.

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 this proceeding. Copies of this filing are on file with the Commission and available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–1448 Filed 1–21–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–344–006]

Texas Gas Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

January 15, 1998.

Take notice that on January 12, 1998, Texas Gas Transmission Corporation (Texas Gas) tendered for filing changes to its FERC Gas Tariff, First Revised Volume No. 1, with an effective date of November 1, 1997:

Substitute First Revised Sheet No. 50
Substitute First Revised Sheet No. 51

Texas Gas states that this instant filing is made in compliance with the Ordering Paragraph B of the Commission's Order issued December 29, 1997, in Docket No. RP97–344 at 81 FERC ¶ 61,398 (1997). As required by that Order, Texas Gas has revised the tariff sheets to provide that service under Rate Schedule NNS will be available to any Customer provided that there are operational and/or administrative arrangements in place to meet the requirements of such service.

Texas Gas further states that it has served copies of this filing upon the company's jurisdictional customers, interested state commissions, and all parties appearing on the official restricted service list in Docket No. RP97–344.

Any person desiring to protest said filing should file a Protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules of Practice and Procedure. All such protests should be filed in accordance with Section 154.210 of the Commission's Regulations. Protests may 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–1443 Filed 1–21–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–58–002]

Transcontinental Gas Pipe Line Corporation; Notice of Proposed Changes in FERC Gas Tariff

January 15, 1998.

Take notice that on January 12, 1998, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing certain revised tariff sheets to its FERC Gas Tariff, Third Revised Volume No. 1 which tariff sheets are enumerated in Appendix A attached to the filing. The referenced tariff sheets are proposed to be effective December 21, 1997.

Transco states that the purpose of the instant filing is to comply with the Commission's order issued January 7, 1998 in Docket No. RP98–58–001. Such order required Transco to refile tariff sheets that were duplicatively numbered in Transco's December 23, 1997 filing in that docket. Transco tendered the sheets enumerated in Appendix A with the revised pagination.

Transco states that it is serving copies of the instant filing on parties to Docket No. RP98–58 and interested State Commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests should 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–1440 Filed 1–21–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–159–009]

Transcontinental Gas Pipe Line Corporation; Notice of Request for Extension of Waiver

January 15, 1998.

Take notice that on November 26, 1997, Transcontinental Gas Pipe Line Corporation (Transco) filed in Docket No. RP97–159–009 a request pursuant to 18 CFR § 385.2008 for extension of waiver to permit Transco to continue to use non-standard GISB data elements and datasets for an additional six months until June 1, 1998.

Transco states that a May 15, 1997, Commission Order on Compliance Filing and rehearing (79 FERC ¶ 61,172 (1997), granted a waiver to permit Transco to use non-standard data elements and datasets until December 1, 1997, so that implementation of the Internet electronic communication standards can proceed while GISB is considering requests for modification of the datasets.

Transco states that its requests for modification are still pending before GISB, and that under the circumstances, good cause exists for the Commission to grant Transco an extension of the waiver granted in the May 15 order to allow GISB additional time for consideration of Transco's requests.

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 on or before January 23, 1998. 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 application are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–1444 Filed 1–21–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP98–13–000, CP98–14–000, and CP98–43–000]

Transwestern Pipeline Company, Northern Natural Gas Company, PG&E–Tex, L.P.; Notice of Technical Conference

January 15, 1998.

Take notice that on January 29, 1998, at 10:00 a.m., the Commission Staff will convene a technical conference in the above captioned dockets at the offices of the Federal Energy Regulatory Commission, 888 1st Street. NE, Washington, DC 20426. Any party, as defined in 18 CFR 385.102(c), any person seeking intervenor status pursuant to 18 CFR 385.214 and any participant, as defined in 18 CFR 385.102(b), is invited to attend.

The purpose of the conference is to discuss the resolution of issues as raised by the intervenors and protestors filed in these proceedings.

For further information, contact George Dornbusch (202) 208–0881, Room 81–31 or Sheila Hernandez (202) 208–0868, Room 81–37 in the Office of Pipeline Regulation.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–1451 Filed 1–21–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–12–001]

Williams Natural Gas Company; Notice of Compliance Filing

January 15, 1998.

Take notice that on January 9, 1998, Williams Natural Gas Company (WNG), filed the additional information provided to the Missouri Public Service Commission (MoPCS) in compliance with Commission order issued October 31, 1997.

WNG states that it provided additional information to the MoPCS in compliance with the October 31, 1997 order. By order issued December 30, 1997, WNG was directed to provide the Commission with a copy of the data provided to the MoPSC and any other pertinent information conveyed via discussions between the MoPSC and WNG's staff. WNG states that the instant filing is being made to comply with the December 30 order.

WNG states that a copy of its filing was served on all participants listed on the service list maintained by the Commission in the docket referenced above.

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 proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–1441 Filed 1–21–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–177–000]

Williston Basin Interstate Pipeline Company; Notice of Request Under Blanket Authorization

January 15, 1998.

Take notice that on January 9, 1998, Williston Basin Interstate Pipeline Company (Williston Basin), 200 North Third Street, Suite 300, Bismarck, North Dakota 58501, filed a request with the Commission in Docket No. CP98–177–000, pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to utilize existing taps for transportation of natural gas deliveries to Montana-Dakota Utilities Co. (Montana-Dakota) authorized in blanket certificate issued in Docket No. CP82–487–000, *et al.*, all as more fully set forth in the request on file with the Commission and open to public inspection.

Williston Basin proposes to transport natural gas to Montana-Dakota at three existing transmission line taps, for ultimate use by additional end-use customers. The taps are located in Dawson County and Richland County, Montana, and Pennington County, South Dakota.

Any person or the Commission's staff may, within 45 days after the Commission has issued this notice, 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 NGA (18 CFR 157.205) a protest to the request. If no protest is filed within the allowed time, 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 NGA.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–1452 Filed 1–21–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–167–000]

PG&E Gas Transmission, Northwest Corporation; Notice of Intent To Prepare an Environmental Assessment for the Proposed PG&E Gas Transmission, Northwest Corporation's 1998 Expansion Project and Request for Comments on Environmental Issues and Notice of Site Visit

January 15, 1998.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the construction, installation and operation of three new compressor units at three of its existing compressor stations proposed in the PG&E Gas Transmission, Northwest Corporation's 1998 Expansion Project.[1] This EA will be used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity.

Summary of the Proposed Project

PG&E Gas Transmission, Northwest Corporation (PG&E), formerly Pacific Gas Transmission Company, proposes to expand the capacity of its facilities in Oregon, Washington, and Idaho. PG&E states that the proposed compression upgrades would allow PG&E to transport between Kingsgate, British Columbia and Stanfield, Oregon up to an additional 56,000 dekatherms per day on an annual basis. PG&E seeks to increase the total horsepower (hp) at three of its existing compressor stations:

- 3,100 hp increase at Station 4, located at milepost (MP) 46.7 on PG&E's existing mainline pipeline in Bonner County, Idaho; specifically, by exchanging an existing 13,000 hp unit with a new 15,000 hp unit and exchanging an existing 13,000 hp unit with a low-hour 14,100 hp refurbished unit;
- 4,700 hp increase at Station 7, located at MP 212.6 on PG&E's existing mainline pipeline in Walla Walla County, Washington; specifically, by upgrading its existing 35,000 hp unit to 39,700 hp through equipment modifications and control setpoint changes; and
- 1,500 hp increase at Station 9, located at MP 319.5 on PG&E's existing mainline pipeline in Morrow County, Oregon; specifically, by exchanging an existing 12,600 hp unit with a new 14,100 hp unit. PG&E would install a new, higher capacity oil cooler to be located immediately outside the compressor building and would adjust the temperature control setpoint to the turbine unit.

The general location map and plot plans for each of the proposed compressor station upgrades are shown in Appendix 1. If you are interested in obtaining procedural information, please write to the Secretary of the Commission.

Land Requirements for Construction

All construction activities would take place within the existing fencelines of all three compressor stations. No new land disturbance outside existing compressor station fencelines would be required.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us to discover and address concerns the public may have about proposals. We call this ''scoping''. The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent, the Commission requests public comments on the scope of the issues it will address in the EA. All comments received are considered during the preparation of the EA. State and local government representatives are encouraged to notify their constituents

[1] PG&E Gas Transmission, Northwest Corporation's application was filed with the Commission under Section 7 of the Natural Gas Act and Part 157 of the Commission's regulations.

of this proposed action and encourage them to comment on their areas of concern.

The EA will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Air and noise quality
- Land use
- Geology and soils
- Public safety
- Endangered and threatened species
- Cultural resources

We will also evaluate possible alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

PG&E has proposed a system alternative, known as the Pipeline Looping Alternative, which would involve the looping of PG&E's existing mainline with a third, 42-inch-diameter pipeline located between Mainline valve (MV) 5–1 in Kootenai County, Idaho and MV 5–2 in Spokane County, Washington. The pipeline loop would be about 10.7 miles in length. See appendix 2 for an approximate location of this system alternative.

Our independent analysis of the issues will be in the EA. Depending on the comments received during the scoping process, the EA may be published and mailed to Federal, state, and local agencies, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the Commission's official service list for this proceeding. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we make our recommendations to the Commission.

Currently Identified Environmental Issues

We have already identified several issues that we think deserve attention based on a preliminary review of the proposed facilities and the environmental information provide by PG&E. This preliminary list of issues may be changed based on your comments and our analysis.

- Four noise-sensitive areas (NSAs) have been identified in close proximity to Station 4.
- One NSA has been identified in close proximity to Station 7.
- One NSA has been identified in close proximity to Station 9.
- Possible consideration of the Pipeline Looping Alternative in lieu of expanding the three existing compressor stations.

No nonjurisdictional facilities have been identified for this project.

Public Participation

You can make a difference by sending a letter addressing your specific comments or concerns about the project. You should focus on the potential environmental effects of the proposal, alternatives to the proposal (including alternative routes, and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

- Send two copies of your letter to: Mr. David P. Boergers, Acting Secretary, Federal Energy Regulatory Commission, 888 First St., N.E., Room 1A, Washington, DC 20426;
- Label one copy of the comments for the attention of the Environmental Review and Compliance Branch, PR–11.1;
- Reference Docket No. CP98–167–000; and
- Mail your comments so that they will be received in Washington, DC on or before February 17, 1998.

Notice of Site Visit

On January 22, 1998, the staff of the Office of Pipeline Regulation will be conducting an environmental site visit of PG&E's Pipeline Looping Alternative. All parties may attend. Those planning to attend must provide their own transportation.

For further information about where the site inspection will begin, please contact Paul McKee at (202) 208–1088.

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding or become an ''intervenor''. Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must provide copies of its filings to all other parties. If you want to become an intervenor you must files a motion to intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) (see appendix 3).

You do not need intervenor status to have your environmental comments considered.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–1453 Filed 1–21–98; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5951–8]

Agency Information Collection Activities: Cooperative Agreements and Superfund State Contracts for Superfund Response Actions; Submissions for OMB Review, Comment Request

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Cooperative Agreements and State Contracts for Superfund Response Actions (OMB Control #2010–0020, εχπιρατιον δατε—02/28/98).

DATES: Comments must be submitted on or before February 23, 1998.

FOR FURTHER INFORMATION OR A COPY: Contact Sandy Farmer at EPA by phone at (202) 260–2740, by e-mail at farmer.sandy@epamail.epa.gov, or download off the Internet at http://www.epa.gov/icr/icr.htm and refer to EPA ICR No. 1487.06.

SUPPLEMENTARY INFORMATION:

Title: Cooperative Agreements and Superfund contracts for Superfund Response Actions (OMB Control No. 2010–0020; EPA–ICR No. 1487.06) expiring 02/28/98. This is a request for an extension of a currently approved Information Collection Request (ICR).

Abstract

This ICR authorizes the collection of information under EPA's Superfund Rule (40 CFR, part 35, subpart O) that establishes the administrative requirements for the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA)—funded cooperative agreements for State, local and Federally recognized Indian tribal government response actions. The regulation also codifies the administrative requirements for Superfund State Contracts for non-State lead remedial responses. This regulation includes only those provisions as mandated by CERCLA, required by OMB Circulars, or added by EPA to ensure sound and effective financial assistance management. The information is collected from applicants/recipients of EPA assistance and used to make awards, pay recipients

and collect information on how Federal funds are being spent. EPA needs the information to meet its Federal stewardship responsibilities. Recipient responses are required to obtain a benefit (federal funds) under 40 CFR part 31, ''Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.'' 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 and 49 CFR Chapter 15. The **Federal Register** Notice required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on 07/02/97 (vol. 62, No. 127, pg. 35803; no comments were received).

Burden Statement

The annual reporting and record keeping burden for this collection of information is estimated to average [10] hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, 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 purpose of collecting, validating, and verifying information, processing and maintaining information, and disclosing information, processing 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.

Respondents/Affected Entities: State, Local or Tribal Governments.

Estimated Number of Respondents: 500.

Frequency of Response: As required.

Estimated Total Annual Hour Burden: 5,000.

Estimated Total Annualized Cost Burden: 5,000$36/hr=$180,000.00.

Send Comments 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 to the following addresses. Please refer to EPA ICR No. 1487.06 and OMB Control No. 2010–0020—in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, OPPE Regulatory Information Division (2137), 401 M Street, S.W. Washington, D.C. 20460 and

Office of Information and Regulatory Affairs, Office of Management and Budget, 727 17th Street, N.W., Washington, D.C. 20502

Dated: January 15, 1998.

Joseph Retzer,

Director, Regulatory Information Division.

[FR Doc. 98–1530 Filed 1–21–98; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Privacy Act of 1974: Systems of Records

AGENCY: Federal Communications Commission (FCC).

ACTION: Notice of a new system of records.

SUMMARY: This notice meets the requirements of the Privacy Act of 1974 regarding the publication of an agency's notice of systems of records. It documents a new FCC system of records.

DATES: Written comments on the proposed altered system should be received by February 23, 1998. Office of Management and Budget, which has oversight responsibility under the Privacy Act to review the system may submit comments on or before March 3, 1998. The proposed system shall be effective without further notice on March 3, 1998 unless the FCC receives comments that would require a contrary determination. As required by 5 U.S.C. 552a(o) of the Privacy Act, the FCC submitted reports on this new system to both Houses of Congress.

ADDRESSES: Comments should be mailed to Judy Boley, Privacy Act Officer, Performance Evaluation and Records Management, Room 234, FCC, 1919 M Street, NW., Washington, DC 20554. Written comments will be available for inspection at the above address between 9:00 a.m. and 4:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Judy Boley, Privacy Act Officer, Performance Evaluation and Records Management, Room 234, FCC, 1919 M Street, NW., Washington, DC 20554, (202) 418–0214 or via internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION: As required by the Privacy Act of 1974, 5 U.S.C. 552a(e)(4), this document sets forth notice of the proposed system of records maintained by the FCC. This notice is a summary of more detailed information which may be viewed at the location and hours given in the **ADDRESSES** section above.

The proposed system of records is as follows:

FCC/Central-10, ''FCC Access Control System.'' This system will be used by the FCC Security Officer and the Personnel Security Specialist of the Security Office to control and account for all persons entering the facility and by which the FCC may ascertain the times persons were in the facility.

FCC/Central-10

SYSTEM NAME:

FCC Access Control System.

SYSTEM LOCATION:

Federal Communications Commission (FCC), Office of Managing Director, Security Operations Staff, 1919 M Street, NW., Washington, DC 20554.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current FCC employees, current contractors, special visitors and visitors.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system consists of a computer database, with all records containing the last and first name, filed alphabetically by last name, with a corresponding Badge Number. FCC employee database will include first and last name, telephone number, Bureau/Office, supervisor, room number, date of issuance, and parking permit number, if applicable. Contractor database will include first and last name, contractor company name, telephone number, FCC point of contact and telephone number, and date of issuance. Proof of identity required through photographic identification is necessary prior to issuance of contractor badge.

Special visitor's database will include first and last name, employer's name, address, telephone number, point of contact at the employer, and date of issuance. Proof of identity required through photographic identification is necessary prior to issuance of special visitor badge.

Visitor database will include first and last name, telephone number, destination, agency or firm name, photographic identification along with numerical identifier.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Presidential Directive based on Department of Justice Report entitled Vulnerability Assessment of Federal Facilities.

PURPOSE(S):

This system provides a method by which the FCC can control and account

for all persons entering the facility and by which the FCC may ascertain the times persons were in the facility.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Where there is an indication of a violation or potential violation of a statute, regulation, rule or order, records from this system may be referred to the appropriate Federal, state, or local agency responsible for investigating or prosecuting a violation or for enforcing or implementing the statute, rule, regulation or order.

2. A record from this system may be disclosed to a request for information from a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information if necessary to obtain information relevant to a investigation.

3. A record on an individual in this system of records may be disclosed to a Congressional office in response to an inquiry the individual has made to the Congressional office.

4. A record from this system of records may be disclosed to GSA and NARA for the purpose of records management inspections conducted under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall not be used to make a determination about individuals.

In each of these cases, the FCC will determine whether disclosure of the records is compatible with the purpose for which the records were collected.

5. Records from this system may be disclosed to FCC supervisors or management representatives to ascertain (either confirm or refute) the times employees were in the facility.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in a password protected computer database.

RETRIEVABILITY:

Records are retrieved by the name of individuals on whom they are maintained, by a limited number of authorized individuals.

SAFEGUARDS:

The computer terminals are stored within a secured area.

RETENTION AND DISPOSAL:

When an employee/contractor leaves the agency the file in the database is deleted. Special visitor badges are given a 1 year valid period, after which the card will automatically deactivate. All returned visitor cards will be reused on a daily basis. Transaction data for all cards will be placed on backup discs and stored for six months.

SYSTEM MANAGER(S) AND ADDRESS:

FCC, Office of Managing Director, Security Operations Staff, 1919 M Street, N.W., Washington, DC 20554.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system of records contains information about them should contact the system manager indicated above. Individuals must furnish the following information for their records to be located and identified:

Full name.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to records about them should contact the system manager indicated above. Individuals must furnish the following information for their record to be located and identified:

Full name.

An individual requesting access must also follow FCC Privacy Act regulations regarding verification of identity and access to records (47 CFR 0.554 and 0.555).

CONTESTING RECORD PROCEDURES:

Individuals wishing to request amendment of their records should contact the system manager indicated above. Individuals must furnish the following information for their record to be located and identified:

Full name.

An individual requesting amendment must also follow the FCC Privacy Act regulations regarding verification of identity and amendment of records (47 CFR 0.556 and 0.557).

RECORD SOURCE CATEGORIES:

The individual to whom the information applies.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

[FR Doc. 98–1533 Filed 1–21–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: The FDIC, 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 proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35). Currently, the FDIC is soliciting comments concerning an information collection titled ''Community Reinvestment Act.''

DATES: Comments must be submitted on or before March 23, 1998.

ADDRESSES: Interested parties are invited to submit written comments to Tamara R. Manly, Management Analyst (Regulatory Analysis), (202) 898–7453, Office of the Executive Secretary, Room 4022, Attention: Comments/OES, Federal Deposit Insurance Corporation, 550 17th Street N.W., Washington, D.C. 20429. All comments should refer to ''Community Reinvestment Act.'' Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street), on business days between 7:00 a.m. and 5:00 p.m. [FAX number (202) 898–3838; Internet address: comments@fdic.gov].

A copy of the comments may also be submitted to the OMB desk officer for the FDIC: Alexander Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Tamara R. Manly, at the address identified above.

SUPPLEMENTARY INFORMATION: Proposal to renew the following currently approved collection of Information:

Title: Community Reinvestment Act.

OMB Number: 3064–0092.

Frequency of Response: Annually.

Affected Public: Any depository institution that serves the credit needs of the communities in which they are chartered to do business.

Estimated Number of Respondents: 6,169.

Estimated Time per Response: 12 hours.

Estimated Total Annual Burden: 74,028 hours.

General Description of Collection: The Community Reinvestment Act and regulation 12 CFR 345 require each appropriate Federal financial supervisory agency to use its authority when examining financial institutions, to encourage such institutions to help meet credit needs of the local communities in which they are chartered consistent with safe and sound operation of such institutions.

Request for Comment

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the collection should be modified prior to submission to OMB for review and approval. Comments submitted in response to this notice also will be summarized or included in the FDIC's requests to OMB for renewal of this collection. All comments will become a matter of public record.

Dated at Washington, D.C., this 14th day of January, 1998.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 98–1454 Filed 1–21–98; 8:45 am]

BILLING CODE 6714–01–M

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Submission to OMB Under Delegated Authority

Background

Notice is hereby given of the final approval of a proposed revised information collection by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority, as per 5 CFR 1320.16 (OMB Regulations on Controlling Paperwork Burdens on the Public). The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

FOR FURTHER INFORMATION CONTACT:

Chief, Financial Reports Section—Mary M. McLaughlin—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202-452-3829)

OMB Desk Officer—Alexander T. Hunt—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503 (202-395-7860)

Final approval under OMB delegated authority of the extension for three years, with revision, of the following report:

1. Report title: Money Market Mutual Fund Assets Reports

Agency form number: FR 2051a, b, c, and d

OMB Control number: 7100-0012

Effective Date: February 23, 1998.

Frequency: weekly and monthly

Reporters: money market mutual funds

Annual reporting hours: 5,580

Estimated average hours per response: 3 minutes (FR 2051a), 12 minutes (FR 2051b)

Number of respondents: 1,500 (FR 2051a), 700 (FR 2051b)

Small businesses are affected.

General description of report: This information collection is voluntary (12 U.S.C. 353 et seq.) and is given confidential treatment (5 U.S.C. 552(b)(4)).

Abstract: These reports provide information on the assets of money market mutual funds which the Federal Reserve System uses in the construction of the monetary aggregates and for current analysis of money market conditions and banking developments.

The Federal Reserve has reduced and simplified this information collection. While the weekly FR 2051a is unchanged, the monthly FR 2051b report has been reduced by condensing six items into three. The weekly FR 2051c and d reports have been discontinued.

Board of Governors of the Federal Reserve System, January 15, 1998.

William W. Wiles,

Secretary of the Board.

[FR Doc. 98-1436 Filed 1-21-98; 8:45AM]

Billing Code 6210-01-F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 17, 1998.

A. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. Hibernia Corporation, New Orleans, Louisiana; to merge with Firstshares of Texas, Inc., Marshall, Texas, and thereby indirectly acquire First National Bank, Marshall, Texas.

B. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. CountryBanc Holding Company, Edmond, Oklahoma; to acquire 100 percent of the voting shares of First State Holding Company of Elkhart, Elkhart, Kansas, and thereby indirectly acquire First State Bank of Elkhart, Elkhart, Kansas.

C. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. MainBancorp, Inc., Austin, Texas, and Maincorp Intermediate Holding Co., Inc., Wilmington, Delaware; to acquire 100 percent of the voting shares of, and thereby merge with First National Bancorporation, Inc., Ennis, Texas, and thereby indirectly acquire First National Bank of Ennis, Ennis, Texas.

Board of Governors of the Federal Reserve System, January 16, 1998.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 98–1514 Filed 1–21–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 17, 1998.

A. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Cornhusker Growth Corporation, Lincoln, Nebraska; to acquire Johnston Growth Corporation, Johnston, Iowa, and thereby indirectly acquire Johnston Charter Bank, Johnston, Iowa, a de novo organization, pursuant to § 225.28(b)(4) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, January 16, 1998.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 98–1513 Filed 1–21–98; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

The National Center for Infectious Diseases (NCID) of the Centers for Disease Control and Prevention (CDC) Announces the Following Workshop

Name: Addressing Emerging Infectious Diseases II: Entering the 21st Century.

Times and Dates: 10:30 a.m.–5:45 p.m., January 22, 1998; 8:30 a.m.–3 p.m., January 23, 1998.

Place: CDC, Auditorium A, 1600 Clifton Road, NE, Atlanta, Georgia 30333.

Status: Open to the public, limited only by the space available.

Purpose: The purpose of this workshop is to discuss the proposed update to the CDC Plan, ''Addressing Emerging Infectious Diseases Threats: A Prevention Strategy for the United States.''

Matters To Be Discussed: The Workshop will consist of a revision and up-dating of goals, directions, prevention, and control strategies of emerging and re-emerging infectious diseases of the 21st Century. The agenda will include an NCID update; an overview of CDC Emerging Infections Plan 1998–2003; discussion; charge to the workgroups on (a) surveillance and response, (b) applied research, (c) prevention and control, and (d) infrastructure; a review of the workgroup progress; and reports.

The working groups will consist of representatives from national and international organizations, and State and Federal representatives.

Agenda items are subject to change as priorities dictate.

Written comments are welcome and should be received by the contact person listed below prior to the opening of the meeting.

Contact Person for More Information: Diane S. Holley, Office of the Director, NCID, CDC, M/S C–20, 1600 Clifton Road, NE, Atlanta, Georgia 30333, telephone 404/639–0078.

Dated: January 16, 1998.

Carolyn J. Russell,

Director, Management Analysis and Services Office Centers for Disease Control and Prevention (CDC).

[FR Doc. 98–1598 Filed 1–20–98; 10:47 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Federal Allotments to States for Social Services Expenditures, Pursuant to Title XX, Block Grants to States for Social Services; Revised Promulgation for Fiscal Year 1998

AGENCY: Administration for Children and Families, Department of Health and Human Services.

ACTION: Notification of allocation of title XX—social services block grant allotments for Fiscal Year 1998.

SUMMARY: This issuance sets forth the individual revised allotments to States for Fiscal Year 1998, pursuant to title XX of the Social Security Act, as amended (Act). The initial **Federal Register** notice was published on December 2, 1996 based on the authorization level of $2.380. The appropriation which was enacted on November 13, 1997 (Pub. L. 105–78) decreased the authorization amount for title XX from $2.380 billion to $2.299 billion which is a decrease of $81 million. Grant awards for Fiscal Year 1998 will be issued based on the appropriation amount.

FOR FURTHER INFORMATION CONTACT: Frank A. Burns, (202) 401–5536.

SUPPLEMENTARY INFORMATION: For Fiscal Year 1998, the allotments are based upon the Bureau of Census population statistics contained in its reports ''Population of States by Broad Age Groups and Sex: 1990 and 1995 (CB96–88, Table 4) released May 31, 1996, and ''1990 Census of Population and Housing'' (CPH–6–AS and CPH–6–CNMI) published April 1992, which was the most recent data available from the Department of Commerce at the time of the Department's initial promulgation.

EFFECTIVE DATE: The allotments are effective October 1, 1997.

FISCAL YEAR 1998 FEDERAL ALLOTMENTS TO STATES FOR SOCIAL SERVICES—TITLE XX BLOCK GRANTS

	Initial FY 98 allotment	Revised FY 98 allotment
Total	$2,380,000,000	$2,299,000,000

FISCAL YEAR 1998 FEDERAL ALLOTMENTS TO STATES FOR SOCIAL SERVICES—TITLE XX BLOCK GRANTS—Continued

	Initial FY 98 allotment	Revised FY 98 allotment
Alabama	38,307,808	37,004,055
Alaska	5,440,375	5,255,219
American Samoa	88,560	85,546
Arizona	37,992,554	36,699,530
Arkansas	22,373,994	21,612,526
California	284,529,822	274,846,246
Colorado	33,750,142	32,601,503
Connecticut	29,498,723	28,494,775
Delaware	6,458,194	6,238,398
Dist. of Col.	4,990,013	4,820,185
Florida	127,596,615	123,254,041
Georgia	64,861,162	62,653,702
Guam	410,345	396,379
Hawaii	10,691,598	10,327,724
Idaho	10,475,425	10,118,909
Illinois	106,555,694	102,929,219
Indiana	52,269,036	50,490,132
Iowa	25,598,587	24,727,374
Kansas	23,103,580	22,317,282
Kentucky	34,767,961	33,584,682
Louisiana	39,109,452	37,778,416
Maine	11,177,990	10,797,562
Maryland	45,423,530	43,877,603
Massachusetts	54,709,999	52,848,020
Michigan	86,010,171	83,082,934
Minnesota	41,523,394	40,110,202
Mississippi	24,292,536	23,465,773
Missouri	47,954,566	46,322,499
Montana	7,836,302	7,569,604
Nebraska	14,744,858	14,243,037
Nevada	13,781,083	13,312,063
New Hampshire	10,340,316	9,988,397
New Jersey	71,562,552	69,127,020
New Mexico	15,177,206	14,660,671
New York	163,355,373	157,795,800
North Carolina	64,807,119	62,601,499
North Dakota	5,773,643	5,577,145
No. Mariana Islands	82,069	79,276
Ohio	100,439,775	97,021,447
Oklahoma	29,525,745	28,520,877
Oregon	28,291,753	27,328,883
Pennsylvania	108,735,447	105,034,787
Puerto Rico	12,310,345	11,891,379
Rhode Island	8,917,171	8,613,687
South Carolina	33,083,606	31,957,651
South Dakota	6,566,281	6,342,807
Tennessee	47,342,073	45,730,851
Texas	168,651,632	162,911,808
Utah	17,573,133	16,975,056
Vermont	5,269,238	5,089,907
Virgin Islands	410,345	396,379
Virginia	59,609,939	57,581,197
Washington	48,918,341	47,253,473
West Virginia	16,465,242	15,904,870
Wisconsin	46,144,110	44,573,659
Wyoming	4,323,477	4,176,334

Dated: January 7, 1998.

Donald Sykes,

Director, Office of Community Services.

[FR Doc. 98–1526 Filed 1–21–98; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 95N–0192]

Agency Information Collection Activities; Announcement of OMB Approval

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''Quality Mammography Standards'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (the PRA).

FOR FURTHER INFORMATION CONTACT: Margaret R. Schlosburg, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of October 28, 1997 (62 FR 55851), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under section 3507 of the PRA (44 U.S.C. 3507). 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. OMB has now approved the information collection and has assigned OMB control number 0910–0309. The approval expires on December 31, 2000.

Dated: January 14, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–1419 Filed 1–21–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98D–0016]

Draft Guidance on Professional Flexible Labeling of Antimicrobial Drugs; Availability; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft level 1 Guidance for Industry entitled ''Professional Flexible Labeling of Antimicrobial Drugs (#66).'' This draft guidance is intended to provide specific guidance on the development of Professional Flexible Labeling (PFL) for therapeutic veterinary prescription antimicrobial drugs. The agency is requesting comments on this draft guidance.

DATES: Submit written comments by April 22, 1998.

ADDRESSES: Submit written comments on the draft guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857. Comments should be identified with the full title of the draft guidance and the docket number found in brackets in the heading of this document.

Submit written requests for single copies of this draft guidance to the Communications Staff (HFV–12), Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855. Send two self-addressed adhesive labels to assist that office in processing your requests.

Copies of this draft guidance document may also be obtained from the CVM Home Page (http://www.cvm.fda.gov) on the Internet.

FOR FURTHER INFORMATION CONTACT: John D. Baker, Center for Veterinary Medicine (HFV–110), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0130. E-mail: jbaker@bangate.fda.gov.

SUPPLEMENTARY INFORMATION:

Background

For many years, CVM has approved veterinary prescription antimicrobial products labeled with single fixed dosages for a narrow range of specific diseases and organisms. The very narrow label indications often failed to address the fact that, while some specific bacteria produce repeatable, recognized disease, many organisms are either opportunistic or are known to produce a variety of clinical manifestations. In addition, with the approval of single fixed dosages, the efficacy of some products could become suboptimal as bacterial susceptibility patterns change with time.

The basic concept of Professional Flexible Labeling (PFL) is to provide prescription veterinary products that carry useful prescribing information for the range of clinical situations included within their approved conditions of use. Implementation of PFL is based on the recognition that, as a function of their medical training, veterinarians possess the knowledge, skills, and abilities to interpret medical diagnostic and prescribing information. Accordingly, they are able to develop these data into appropriate therapeutic regimens. In the course of their professional studies, veterinarians are trained in microbiology, the interpretation of bacterial culture and sensitivity determinative procedures, and pharmacokinetics. This knowledge gives them the ability to determine the appropriateness of a particular drug for use in a specific case.

Under section 502 (f)(1) of the Federal Food, Drug, and Cosmetic Act (the act), a drug is deemed to be misbranded unless its labeling bears adequate directions for use (21 U.S.C. 352(f)(1)). The regulations regarding veterinary drugs at 21 CFR 201.105 exempt a drug from this provision of the act if it is in the possession of a licensed veterinarian for use in the course of professional practice, is dispensed in accordance with section 503(f) of the act (21 U.S.C. 353(f)), and its label bears certain stipulated information. Section 504 of the act (21 U.S.C. 354) stipulates that a veterinary feed directive drug, a drug intended for use in or on animal feed which is limited to use under the supervision of a licensed veterinarian, is exempt from section 502(f) when labeled, distributed, held, and used in accordance with the conditions set forth in section 504.

Drugs labeled in accordance with the PFL concept require the training of licensed veterinarians to help ensure appropriate clinical usage. Such labels would not provide adequate directions for use by the lay person. Therefore, use of PFL on nonprescription or nonveterinary feed directive drugs would cause the drugs to be misbranded under section 502 (f)(1) of the act, PFL-labeled drugs must be classified as prescription animal drugs or veterinary feed directive drugs. Accordingly, the PFL concept discussed in this document may apply to either veterinary

prescription or veterinary feed directive antimicrobial drugs.

The PFL concept has been a topic of discussion for many years. Recent workshops on PFL were held in April and December 1995 under the cosponsorship of the Center for Veterinary Medicine, the American Academy of Veterinary Pharmacology and Therapeutics, the Animal Health Institute, and the American Veterinary Medical Association.

A summary of the discussions and opinions expressed in the April, 1995 workshop were published in the *Journal of the American Veterinary Medical Association (JAVMA)*, October 1, 1995. At the conclusion of the December, 1995 workshop, a task force prepared a report on the PFL concept. The task force report, which included a model drug label, was published in the *JAVMA* on July 1, 1996.

This draft guidance is intended to describe how the PFL concept can be applied to prescription antimicrobial products to enable veterinary practitioners to apply their expertise to appropriately, effectively, and safely use antimicrobials for specific clinical cases. The draft document provides specific guidance for drug sponsors on the development of PFL labeling for therapeutic veterinary prescription antimicrobial drugs. Ultimately, the labeling of products such as described in this draft guidance will better accommodate the needs of veterinary practitioners in utilizing animal drugs to treat animals in the course of their professional practices.

Approaches to PFL may not be equally applicable to all classes of therapeutic prescription products (e.g., antimicrobials, antiparasitics, physiologics). Therefore, CVM intends to develop PFL guidances that are specific to the various classes of drugs. This draft guidance document specifically addresses the application of the PFL concept to prescription therapeutic antimicrobial products.

A sponsor may follow the guidance provided in this draft document, or a sponsor may choose to follow alternate procedures or practices. If a sponsor elects to use alternate procedures or practices, that sponsor may wish to discuss the matter *a priori* with the agency to prevent an expenditure of money and effort on activities that may later be determined to be unacceptable to FDA.

This draft document represents current FDA thinking on PFL for antimicrobial drugs. This draft guidance document does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternate approach may be used if such an approach satisfies the requirements of the applicable statute, regulations, or both. FDA may amend this draft guidance document based upon comments submitted by interested persons.

Request for Comments

Interested persons may, on or before April 22, 1998, submit to the Dockets Management Branch (address above) written comments on the draft guidance document. 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, and with the full title of the guidance document.

The draft 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 at http://www.fda.gov. After review of these comments, FDA will finalize the guidance document with any appropriate changes. Thereafter, interested persons may submit written comment on the guidance document directly to the CVM Communications Staff (address above).

Dated: January 14, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–1417 Filed 1-15-98; 3:51 pm]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–R–226]

Agency Information Collection Activities: Proposed Collection; Comment Request

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, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: New Collection; *Title of Information Collection:* Evaluation of Medicare Choices Demonstration; *Form No.:* HCFA–R–226; *Use:* The objective of the evaluation of the Medicare Choices Demonstration is to determine whether the newer types of managed care delivery systems in the demonstration are effective at attracting and retaining Medicare enrollees and providing a high quality, cost-effective care. The key research questions HCFA will ask Medicare enrollees include: (A) Beneficiary choice, knowledge, and biased selection. Why do beneficiaries enroll (or not enroll) in plans? What proportion of enrollees disenroll, and why? What is the nature and extent of biased selection in the demonstration, and does it vary across plans? How well do enrollees understand their plans and the rules and procedures for obtaining care? (B) Effects on service use. What are the effects of the plans on the use of Medicare-covered services? Are some plans more effective at controlling service use than others? (C) Effects on Medicare costs. What are the effects of the various payment methods being tested in the demonstration on Medicare costs? (D) Effects on satisfaction, access, and quality. What are the effects of the plans on enrollee satisfaction, access to care, and quality of care? How does this vary across plans? *Frequency:* one time; *Affected Public:* Individuals or Households; *Number of Respondents:* 10,000; *Total Annual Responses:* 10,000; *Total Annual Hours:* 3,880.

To obtain copies of the supporting statement for the proposed paperwork collections referenced above, access HCFA's WEB SITE ADDRESS at http://www.hcfa.gov/regs/prdact95.htm, or to obtain the supporting statement and any related forms, E-mail your request, including your address and phone number, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Information Services, Information Technology Investment Management Group, Division of HCFA Enterprise Standards, Attention: John Rudolph, Room C2–26–17, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: January 8, 1998

John P. Burke III,

HCFA Reports Clearance Officer, Division of HCFA Enterprise Standards, Health Care Financing Administration.

[FR Doc. 98–1516 Filed 1–21–98; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Notice of Meeting and Correction of Meeting Notice

Pursuant to Public Law 92–463, notice is hereby given of a correction of a notice of meeting of the SAMHSA National Advisory Council and of the meeting of the Center for Substance Abuse Treatment (CSAT) National Advisory Council to be held in January 1998.

Public notice was given in the **Federal Register** on January 8, 1998 (Volume 63, Number 5, page 1120) that the SAMHSA National Advisory Council would be meeting on January 21, 1998, at the Parklawn Building, Room 17–89. The date of this meeting has subsequently changed to January 22, 1998. The agenda of the meeting and the contact for additional information remain as announced.

With regard to the CSAT National Advisory Council meeting, a portion of the meeting will be open and include discussion of the Center's policy issues and current administrative, legislative, and program developments. If anyone needs special accommodations for persons with disabilities please notify the Contact listed below.

The meeting will include the discussion of information about the Center for Substance Abuse Treatment's procurement plans. Therefore a portion of the meeting will be closed to the public as determined by the Administrator, SAMHSA, in accordance with Title 5 U.S.C. 552b(c)(3) and 5 U.S.C. App. 2, section 10(d).

A summary of the meeting and roster of council members may be obtained from: Mrs. Marjorie Cashion, CSAT, National Advisory Council, Rockwall II Building, Suite 619, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–8923.

Substantive program information may be obtained from the contact whose name and telephone number is listed below.

Committee Name: Center for Substance Abuse Treatment, National Advisory Council.

Meeting Date: January 27, 1998—8:30 a.m.–5:00 p.m; January 28, 1998—9:00 a.m.–2:00 p.m.

Place: Omni Shoreham Hotel, Hampton Room, 2500 Calvert Street, N.W., Washington, D.C. 20008.

Type: Closed: January 27, 1998—8:30 a.m.–9:00 a.m. Open: January 27, 1998—9:00 a.m.–5:00 p.m.; January 28, 1998—9:00 a.m.–2:00 p.m.

Contact: Marjorie M. Cashion, Executive Secretary, Telephone: (301) 443–8923, and FAX: (301) 480–6077.

This notice is being published with less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

Dated: January 20, 1998.

Jeri Lipov,

Committee Management Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 98–1611 Filed 1–20–98; 12:12 pm]

BILLING CODE 4162–20–U

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4263–N–72]

Submission for OMB Review: Comment Request

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due date: February 23, 1998.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and/or OMB approval number and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–1305. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: January 15, 1998.

David S. Cristy,

Director, Information Resources, Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Title of Proposal: Survey Instructions and Certificate.

Office: Housing.

OMB Approval Number: 2502–0010.

Description of the Need for the Information and its Proposed Use: A land survey and related information are necessary to secure a marketable title and title insurance for the property that provides security for project mortgage insurance furnished under the FHA multifamily programs. Form HUD–2457 provides a uniform method for acceptably meeting program criteria to minimize risk to the insurance fund and the U.S. Treasury that might arise from inadequate project land surveys and related data.

Form Number: HUD–2457.

Respondents: Business or Other For-Profit and Not-For-Profit Institutions.

Frequency of Submission: On Occasion.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
HUD–2457	750		2		.5		750

Total Estimated Burden Hours: 750.
Status: Reinstatement, with changes.
Contact: Ben J. Jacinto, HUD, (202) 708–2866, x2533; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: January 15, 1998.

[FR Doc. 98–1435 Filed 1–21–98; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4315–N–01]

Mortgage and Loan Insurance Programs Under the National Housing Act—Debenture Interest Rates

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, (HUD).

ACTION: Notice of change in debenture interest rates.

SUMMARY: This notice announces changes in the interest rates to be paid on debentures issued with respect to a loan or mortgage insured by the Federal Housing Commissioner under the provisions of the National Housing Act (the ''Act''). The interest rate for debentures issued under Section 221(g)(4) of the Act during the six-month period beginning January 1, 1998, is 6¼ percent. The interest rate for debentures issued under any other provision of the Act is the rate in effect on the date that the commitment to insure the loan or mortgage was issued, or the date that the loan or mortgage was endorsed (or initially endorsed if there are two or more endorsements) for insurance, whichever rate is higher. The interest rate for debentures issued under these other provisions with respect to a loan or mortgage committed or endorsed during the six-month period beginning January 1, 1998, is 6⅜ percent.

FOR FURTHER INFORMATION CONTACT: James B. Mitchell, Department of Housing and Urban Development, 451 7th Street, S.W., Room 6164, Washington, D.C. 20010. Telephone (202) 708–1220 ext. 2612, or TDD (202) 708–4594 for hearing- or speech-impaired callers. These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: Section 224 of the National Housing Act (24 U.S.C. 1715o) provides that debentures issued under the Act with respect to an insured loan or mortgage (except for debentures issued pursuant to Section 221(g)(4) of the Act) will bear interest at the rate in effect on the date the commitment to insure the loan or mortgage was issued, or the date the loan or mortgage was endorsed (or initially endorsed if there are two or more endorsements) for insurance, whichever rate is higher. This provision is implemented in HUD's regulations at 24 CFR 203.405, 203.479, 207.259(e)(6), and 220.830. Each of these regulatory provisions states that the applicable rates of interest will be published twice each year as a notice in the **Federal Register**.

Section 224 further provides that the interest rate on these debentures will be set from time to time by the Secretary of HUD, with the approval of the secretary of the Treasury, in an amount not in excess of the annual interest rate determined by the Secretary of the Treasury pursuant to a statutory formula based on the average yield of all outstanding marketable Treasury obligations of maturities of 15 or more years.

The Secretary of the Treasury (1) has determined, in accordance with the provisions of Section 224, that the statutory maximum interest rate for the period beginning January 1, 1998, is 6⅜ percent and (2) has approved the establishment of the debenture interest rate by the Secretary of HUD at 6⅜ percent for the six-month period beginning January 1, 1998. This interest rate will be the rate borne by debentures issued with respect to any insured loan or mortgage (except for debentures issued pursuant to Section 221(g)(4)) with an insurance commitment or endorsement date (as applicable) within the first six months of 1998.

For convenience of reference, HUD is publishing the following chart of debenture interest rates applicable to mortgages committed or endorsed since January 1, 1980:

Effective interest rate	On or after	Prior to
9½	Jan. 1, 1980	July 1, 1980.
9⅞	July 1, 1980	Jan. 1, 1981.
11¾	Jan. 1, 1981	July 1, 1981.
12⅞	July 1, 1981	Jan. 1, 1982.
12¾	Jan. 1, 1982	Jan. 1, 1983.
10¼	Jan. 1, 1983	July 1, 1983.
10⅜	July 1, 1983	Jan. 1, 1984.
11½	Jan. 1, 1984	July 1, 1984.
13⅜	July 1, 1984	Jan. 1, 1985.
11⅝	Jan. 1, 1985	July 1, 1985.
11⅛	July 1, 1985	Jan. 1, 1986.
10¼	Jan. 1, 1986	July 1, 1986.
8¼	July 1, 1986	Jan. 1, 1987.
8	Jan. 1, 1987	July 1, 1987.
9	July 1, 1987	Jan. 1, 1988.
9⅛	Jan. 1, 1988	July 1, 1988.
9⅜	July 1, 1988	Jan. 1, 1989.
9¼	Jan. 1, 1989	July 1, 1989.
9	July 1, 1989	Jan. 1, 1990.
8⅛	Jan. 1, 1990	July 1, 1990.
9	July 1, 1990	Jan. 1, 1991.
8¾	Jan. 1, 1991	July 1, 1991.
8½	July 1, 1991	Jan. 1, 1992.

Effective interest rate	On or after	Prior to
8	Jan. 1, 1992	July 1, 1992.
8	July 1, 1992	Jan. 1, 1993.
7¾	Jan. 1, 1993	July 1, 1993.
7	July 1, 1993	Jan. 1, 1994.
6⅝	Jan. 1, 1994	July 1, 1994.
7¾	July 1, 1994	Jan. 1, 1995.
8⅜	Jan. 1, 1995	July 1, 1995.
7¼	July 1, 1995	Jan. 1, 1996.
6½	Jan. 1, 1996	July 1, 1996.
7¼	July 1, 1996	Jan. 1, 1997.
6¾	Jan. 1, 1997	July 1, 1997.
7⅛	July 1, 1997	Jan. 1, 1998.
6⅜	Jan. 1, 1998	July 1, 1998.

Section 221(g)(4) of the Act provides that debentures issued pursuant to that paragraph (with respect to the assignment of an insured mortgage to the Secretary) will bear interest at the ''going Federal rate'' of interest in effect at the time the debentures are issued. The term ''going Federal rate'' is defined to mean the interest rate that the Secretary of the Treasury determines, pursuant to a statutory formula based on the average yield on all outstanding marketable Treasury obligations of eight- to twelve-year maturities, for the six-month periods of January through June and July through December of each year. Section 221(g)(4) is implemented in the HUD regulations at 24 CFR 221.790.

The Secretary of the Treasury has determined that the interest rate to be borne by debentures issued pursuant to Section 221(g)(4) during the six-month period beginning January 1, 1998, is 6¼ percent.

HUD expects to publish its next notice to change in debenture interest rates in July 1998.

The subject matter of this notice falls within the categorical exclusion from HUD's environmental clearance procedures set forth in 24 CFR 50.20(1). For that reason, no environmental finding has been prepared for this notice.

(Secs. 211, 221, 224, National Housing Act, 12 U.S.C. 1715b, 17151, 1715o; sec. 7(d), Department of HUD Act, 42 U.S.C. 3535(d))

Dated: January 15, 1998.

Sarah Rosen,

Associate General Deputy, Assistant Secretary for Housing.

[FR Doc. 98–1434 Filed 1–21–98; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Intent to Prepare Comprehensive Conservation Plan

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of Intent to Prepare Comprehensive Conservation Plan.

SUMMARY: This notice advises that the U.S. Fish and Wildlife Service (Service) intends to gather information necessary to prepare a Comprehensive Conservation Plan (CCP) and associated environmental documents for the Lacreek National Wildlife Refuge in Bennett County in southwestern South Dakota.

The Notice of Intent is in compliance with the Service's CCP policy to advise other agencies and the public of its intentions. The Service plans to obtain suggestions and information on the scope of issues to be considered in the planning process.

DATES: Written comments should be received by February 23, 1998.

ADDRESSES: Comments and requests for more information should be referred to Jon Kauffeld, Planning Team Leader, U.S. Fish and Wildlife Service, 203 W. 2nd, Federal Building, Grand Island, NE 68801.

SUPPLEMENTARY INFORMATION: The Service has initiated Comprehensive Conservation Planning for the Lacreek National Wildlife Refuge. Each National Wildlife Refuge has specific purposes for which it was established and for which legislation was enacted. Those purposes are used to develop and prioritize management goals and objectives within the National Wildlife Refuge System mission, and to guide which public uses occur on the Refuge. The planning process is a way for the Service and the public to evaluate management goals and objectives for the best possible conservation efforts of this important wildlife habitat, while providing for wildlife-dependent recreation opportunities that are compatible with each national wildlife refuge's establishing purposes and the mission of the National Wildlife Refuge System.

The Lacreek National Wildlife Refuge (16,410 acres) was established as ''* * * a refuge and breeding ground for migratory birds and other wildlife * * *'' by Executive Order No. 7160, on August 26, 1935. The Refuge is located in the Lake Creek Valley, southern Bennett County, on the northern edge of the Nebraska sandhills. The Refuge provides breeding and migration habitat for Central Flyway waterfowl, other migratory birds, and is home to a significant portion of the high plains trumpeter swan populations.

The Refuge administers the Little White River Recreation Area which was donated to and accepted by the Service on May 20, 1980, under authority of the Refuge Recreation Act (16 U.S.C. 460K–K4) for public recreation. Public use opportunities include wildlife observation and photography, environmental education, and hunting and fishing on the refuge, and on the Little White River Recreation Area boating, waterskiing, swimming, and camping are also permitted.

The Service will conduct a comprehensive conservation planning process that will provide opportunity for Tribal, State and local governments, agencies, organizations, and the public to participate in scoping issues and comment. The Service is requesting input for issues, concerns, ideas, and suggestions for future management of Lacreek National Wildlife Refuge. Anyone interested in providing input is invited to respond to the following three questions.

(1) What makes the Lacreek Refuge (or any specific unit) special or unique for you?

(2) What problems or issues do you want to see addressed in the Comprehensive Conservation Plan?

(3) What improvements would you recommend for the Lacreek Refuge (or any specific unit)?

The Service has provided the above questions for your optional use. There is no requirement to provide information to the Service. The Planning Team developed the above questions to facilitate gathering of information about individual issues and ideas concerning the Lacreek National Wildlife Refuge. Comments received by the Planning Team will be used as part of the planning process, individual comments will not be referenced in our reports or directly responded to.

There was an advertised open house on November 13, 1997, which provided the opportunity to scope issues and concerns. Comments may also be provided anytime during the planning process by writing to the above address. All information provided voluntarily by mail, phone, or at public meetings becomes part of the official public record (e.g., names, addresses, letters of comment, input recorded during meetings). If requested under the Freedom of Information Act by a private citizen or organization, the Service may provide copies of such information.

The environmental review of this project will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), NEPA Regulations (40 CFR 1500–1508), other appropriate Federal laws and regulations, Executive Order 12996 (Management and Public Use of the National Wildlife Refuge System), the National Wildlife Refuge System Improvement Act of 1997, and Service policies and procedures for compliance with those regulations.

We estimate that the draft environmental documents will be available for review in December 1998.

Dated: January 14, 1998.

Terry T. Terrell,

Deputy Regional Director, Denver, Colorado.

[FR Doc. 98–1459 Filed 1–21–98; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Proposed Agency Information Collection Activities; Comment

AGENCY: Bureau of Indian Affairs—Office of Indian Education Programs.

ACTION: Notice.

SUMMARY: This notice announces the Information Collection Request for the Tribally Controlled Community College Grant Application Form, OMB #1076–018, and the Tribally Controlled Community College Annual Report Form, OMB #1076–0105, require reinstatement. The proposed information collection requirement, with no appreciable changes, described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act of 1995, Public Law 104–13, 44 U.S.C. 350(c)(2)(A). The Bureau is soliciting public comments on the subject proposal.

DATES: Written comments must be submitted on or before March 23, 1998.

ADDRESSES: Comments are to be mailed to Director, Office of Indian Education Programs, Department of the Interior, Bureau of Indian Affairs, 1849 C Street, NW, Mail Stop 3512–MIB, Washington D.C. 20240, or hand delivered to Room 3512 at the above address. All written comments will be available for public inspection in Room 3543 of the Main Interior Building, 1849 C Street, NW, Washington D.C., from 9:00 a.m. until 3:00 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Garry R. Martin, Bureau of Indian Affairs, Department of the Interior, 1849 C Street, NW, Mail Stop 3512, Washington D.C. 20240. Telephone 202–208–3478.

SUPPLEMENTARY INFORMATION:

I. Abstract

The information collection is necessary to assess the need for financial assistance and annual performance in accordance with 25 CFR, part 41—Grants To Tribally Controlled Community Colleges And Navajo Community College.

II. Method of Collection

The Tribally Controlled Community Colleges and Navajo Community College regulations provided in 25 CFR part 41.9, subpart A and 25 CFR part 41.25, subpart B contain the program requirements which govern the program. Information collected from the institutions will be used for the continued operation and improvement of tribally controlled community colleges to ensure continued and expanded opportunities for Indian students.

III. Data

(1) *Titles of the Collection of Information* are (a) Tribally Controlled Community College Grant Application, OMB No. 1076–018. Expiration Date: 6–30–93; Type of Review: Reinstatement of an approved information collection form; and (b) Tribally Controlled Community College Annual Report, OMB No. 1076–0105. Expiration Date: 8–31–93; Type of Review: Reinstatement of an approved information collection form.

(2) *Summary of the Collection of Information:* The collection of information provides pertinent data concerning institutional need and annual performance of the Tribally Controlled Community Colleges.

(3) *Affected Entities:* Tribally Controlled Community Colleges

(4) *Description of the need for the information and proposed use of the information:* Submission of an annual grant application (OMB No. 1076–018), is required by statute. Submission of the annual report (OMB No. 1076–0105) is necessary to assess an annual performance for the expenditure of funds received under the authorizing Act. The information is needed to ensure continued support of the establishment, operation and improvement of tribally controlled community colleges. The information collected with the annual report will be used by the Bureau of Indian Affairs or tribal programs for fiscal accountability. The analysis of data will be utilized for administrative and program planning.

(5) *Description of likely respondents, including the estimated number of likely respondents, and proposed frequency of responses to the collection of information:* There are 25 tribal college institutions that respond annually. The number of likely respondents, currently estimated at four additional institutions, will depend on an institution's ability to complete the criteria for becoming an approved tribal college.

(6) *Estimate of total annual reporting and record keeping burden that will result from the collection of information:* 150 hours per annum. 75 hours is the estimated public reporting burden for the 25 tribal institutions to complete the tribally controlled community college grant application (OMB No. 1076–018). This form is estimated to average three hours per respondent that includes time for reviewing the instructions, gathering and maintaining data and completing the form. 75 hours is the estimated public reporting burden for the 25 tribal institutions to complete the tribally controlled community college annual report (OMB No. 1076–0105). This form is estimated to average three hours per respondent that includes time for reviewing the instructions, gathering and maintaining data and completing the form. Estimated Total Annual Burden Hours: 150 hours. Estimated

Annual Costs: $2,700.00 (150 hours @$18.00/hour).

IV. Request for Comments

The Department of the Interior invites comments on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden (including the hours and cost) of the proposed collection of information, including the validity of the methodology and assumption used; (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 of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other collection techniques or other forms of information technology.

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, to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information and disclosing and providing information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they will become a matter of public record.

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 Office of Management and Budget control number.

Dated: December 9, 1997.

Kevin Gover,

Assistant Secretary—Indian Affairs.

BILLING CODE 4310–D2–P

BIA Form 62107

OMB No. 1076-018
Expires 8-31-93

TRIBALLY CONTROLLED COMMUNITY COLLEGE GRANT APPLICATION
25 CFR §41, Public Law 85-471 (as amended)

Information and General Instructions: This information is collected to meet the grant application requirements. The application is due on or before **July 1st** of each year. A response to this request is required by Public Law 95-471, as amended. The public reporting burden for this form is estimated to average three hours per response, including the time for reviewing the instructions, gathering and maintaining data, and completing and receiving the form. Send comments regarding the burden estimate, or any other aspect of this form to the Bureau ICCO, 1849 C Street, NW, MS-337-SIB, Washington, D.C. 20245, and the Office of Management and Budget, Paperwork Reduction Project (1076-018), Washington, D.C.

_____ _____
Name of College or University IRS No.

_____
Mailing Address

_____ _____ _____
Accreditation By Accreditation Type Approving Organization

BOARD OF DIRECTORS
We, the Board of Directors, declare the Institution does not deny admission to any Indian student based upon the criteria and definition set forth in 25 CFR §41.11; or do we waive the requirements of 25 CFR Part 41.

CHAIRPERSON _____ MEMBER _____

VICE CHAIR _____ _____

_____ _____

_____ _____

_____ _____

Number of College governing board: Indian _____ Non-Indian _____

This Institution is sponsored by the _____ Tribe of

_____.

Indian Student Count (ISC) for the past academic term:
Summer _____ Fall _____ Winter _____ Spring _____
ISC is determined by the sum of all full-time and part-time credit hours of all Indian students enrolled divided by 12 for any given academic term.

BIA Form 62107

OMB No. 1076-018
Expires 8-31-93

ENROLLMENT INFORMATION: Degrees Granted

Master Arts/Master Science _____ Average Class Size _____

Bachelor Arts/Science _____ No. Of Instructors _____

Associate Arts/Science _____ Full Time _____

Two Year Certificate _____ Part Time _____

I hereby certify the information contained within this application is complete and accurate.

_____ _____
Chairman of the Board Date

_____ _____
Institution's President Date

I hereby certify that _____ has met all of the
Name of Institution
eligibility requirements for continued funding provided by Public Law 95-471, as amended.

_____ _____
Director, Office of Indian Education Programs Date

_____ _____
Chief, Division of Contracts & Grants Administration Date

REQUIRED ATTACHMENTS:

1. A proposed budget showing total expected operating expenses in the following education categories: Personnel, Instruction, Administration, Other and Total. The total expected revenues from all sources for the academic.
2. A copy of the institution's policy statement, Charter, By-Laws, Catalog which includes a copy of the current institution's curriculum, or other document wherein is found the goals, philosophy or plan of operation to meet the needs of Indian students.
3. A description of the accounting procedures used to account for grants received under the Public Law 95-471, as amended.

BIA Form 6259

OMB No. 1076-0105
Expires 8-31-93

TRIBALLY CONTROLLED COMMUNITY COLLEGES ANNUAL REPORT FORM
FISCAL YEAR _____
25 CFR 41, PUBLIC LAW 95-471, AS AMENDED
DUE ON OR BEFORE DECEMBER 31ST

Information and General Instructions: This information is collected to meet annual reporting requirements. Response to this request is required by Public Law 95-471, as amended. The information collected is subject to the Privacy Act. A response to this request is voluntary and no action may be taken against the institution in refusing to supply the information. The public reporting burden for this form is estimated to average three hours per response, including the time for reviewing the instructions, gathering and maintaining data, and completing and reviewing the form. Send comments regarding the burden estimate or any other aspect of this form to the Bureau ICCO, 1849 C Street, NW, MS 337-MIB, Washington, D.C. 20245, and the Office of Management and Budget, Paperwork Reduction Project (1076-0105), Washington, D.C.

_____ _____
Name of Institution Date

_____
Mailing Address

SECTION 1.0 Funding Sources (dollars)

Title III	State
Title IV	Local
Public Law 93-638	Other
Tribal	TOTAL

1.1 Institutional Accreditation: (Circle One)
Accredited Date _____
Candidate Date _____
3- Rule Date _____
(If the Institution was accepted under the three institutional rule, identify the three institutions accepting transfer credit)
A. _____
B _____
C _____

1.2 Does the Institution have a governing board? _____ _____
Y N

1.3 Is the Institution sanctioned by the tribe(s)? _____ _____
Y N

1.4 Does the Institution have the 'ability to benefit' as part of their admission requirements?
_____ _____
Y N

BIA Form 6259

OMB No. 1076-0105
Expires 8-31-93

1.5 Provide a summary of the past year accomplishments and any foreseeable changes in the institution's goals, philosophy, curriculum, or accreditation for the next year.

SECTION 2.0 Degrees Conferred

Master of Arts/Master of Science	Indian	Non-Indian
Bachelor Arts/Bachelor Science	Indian	Non-Indian
Associate Arts/Associate Science	Indian	Non-Indian
Certificate	Indian	Non-Indian
TOTAL	INDIAN	NON-INDIAN

SECTION 3.0 Student Head Count (Identify number of male and female students enrolled in past academic year)

	INDIAN MALE	INDIAN FEMALE	NON-INDIAN MALE	NON-INDIAN FEMALE
SUMMER				
FALL				
WINTER				
SPRING				
TOTALS				

SECTION 4.0 Faculty Information

4.1 Number of Full-Time Enrollment faculty credit hours generated this school year. _____

4.2 Number of Part-Time Enrollment faculty credit hours generated this school year. _____

4.3 Describe formula used to derive the faculty hours generated.

BIA Form 6259

OMB No. 1076-0105
Expires 8-31-93

SECTION 5.0 Financial Data - INCOME -ANNUAL REVENUE REPORT

SOURCE OF REVENUE	AMOUNT USED FOR YOUR COLLEGE	AMOUNT USED FOR YOUR STUDENTS	AMOUNT USED FOR OUTSIDE PROJECTS	TOTAL
P.L. 95-471				
TECH ASSIST-TCCC GRANT				
STUDENT TUITION & FEES				
INTEREST(ENDOWMENTS & OTHER BANK BALANCES				
TITLE III(AID FOR INSTITUTIONAL DEVELOP)				
CARL PERKINS				
P.L. 93-638				
SCHOOL TO WORK				
WORK STUDY				
FEDERAL PELL				
STUDENT AID/LOANS				
TRIBAL SUPPORT				
LOCAL SUPPORT(NO FED, STATE OR TRIBAL)				
ENDOWMENT(PRINCIPAL, NOT INTEREST)				
GIFTS				
OTHER, SPECIFY & ATTACH				

BIA Form 6259

OMB No. 1076-0105
Expires 8-31-93

EXPENDITURES SECTION

ACTIVITY	COST	ACTIVITY	COST	
INSTRUCTION		RESEARCH		
ATHLETICS		COMMUNITY SERVICES		
STUDENT SERVICES		INSTITUTIONAL ADMINISTRATION		
PHYSICAL PLANT OPERATION		STUDENT FINANCIAL SUPPORT		
EXTENSION/SATELLITE PROG		TECHNICAL ASSISTANCE		
OTHER (SPECIFY & ATTACH)				SUBTOTAL
ADM COSTS - DIRECT LABOR-SALARIES		ADMINISTRATIVE		SUBTOTAL
SUPPORT STAFF		FACULTY		
INDIRECT(BURDEN)COSTS		FRINGE BENEFITS-DIRECT LABOR		
SUPPLIES		DUES & SUBSCRIPTIONS		
LEASE/RENTALS		TELEPHONE		
UTILITIES		INSURANCE		
FACILITIES		OTHER		SUBTOTAL
TRAVEL		TRANSPORTATION		SUBTOTAL
PER DIEM/SUBSISTENCE				
CONSULTANTS		AUDIT		SUBTOTAL

BIA Form 6259

OMB No. 1076-0105
Expires 8-31-93

SECTION 6.0 Student Costs of Attendance Per Academic Year

TUITION	$
ROOM & BOARD	$
TRANSPORTATION	$
TEXT BOOKS	$
SUPPLIES	$
PERSONAL EXPENSES	$
MISCELLANEOUS EXPENSES	$
TOTAL	$

SECTION 7.0 Certificate of Authority

"I certify that the information contained in this annual report is complete and accurate and that the report has been filed with the governing body of the Indian tribe(s) charting this tribally controlled community college".

College/University President

Date

Printed or Typed Name

Authorized College/University Board Member

Date

Printed or Typed Name

[FR Doc. 98–1455 Filed 1–21–98; 8:45 am]
BILLING CODE 4310–02–C

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Proclaiming Certain Lands as Reservation for the Cow Creek Band of Umpqua Tribe of Indians in Oregon

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of reservation proclamation.

SUMMARY: The Assistant Secretary—Indian Affairs proclaimed approximately 4.07 acres as an addition to the reservation of the Cow Creek Band of Umpqua Tribe of Indians on December 19, 1997. This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.1.

FOR FURTHER INFORMATION CONTACT: Larry E. Scrivner, Bureau of Indian Affairs, Division of Real Estate Services, MS–4510/MIB/–Code 220, 1849 C Street, N.W., Washington, D.C. 20240, telephone (202) 208–7737.

SUPPLEMENTARY INFORMATION: A proclamation was issued according to the Act of June 18, 1934 (48 Stat. 986; 25 U.S.C. 467), for the tract of land described below. The land was proclaimed to be an addition to and part of the reservation of the Cow Creek Band of Umpqua Tribe of Indians for the exclusive use of Indians on that reservation who are entitled to reside at the Cow Creek Reservation by enrollment or tribal membership.

Reservation of the Cow Creek Band of Umpqua Tribe of Indians

Douglas County, Oregon

The following described real property is located in the Northwest quarter of Section 27, Township 30 South, Range 5 West, W.M., Douglas County, Oregon.

Beginning at a ⅝″ iron rod located on the easterly right of way of County Road Number 1 (also known as Old Pacific Highway Number 99), said ⅝″ iron rod bears North 30°34′51″ West 335.30 feet from the Southwest corner of the Long Subdivision to the City of Canyonville (See Volume 6, Page 63, Douglas County Surveyor's Office); thence along said Easterly right of way of said County Road Number 1, North 30°34′51″ West 750.62 feet to a ⅝″ iron rod; thence leaving said Easterly right of way and running North 87°50′25″ East 275.35 feet to a ¾″ iron pipe; thence North 87°58′12″ East 150.92 feet to a ⅝″ iron rod; thence South 3°47′25″ East 246.10 feet to a ⅝″ iron rod; thence South 8°49′22″ East 421.37 feet to a ⅝″ iron rod; thence due West 125.00 feet to the point of beginning. Containing 4.07 acres, more or less.

Title to the land described above is conveyed subject to any valid existing easements for public roads and highways, for public utilities and for railroads and pipelines and any other right-of-way or reservation of record.

Dated: December 19, 1997.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 98–1420 Filed 1–21–98; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

DEPARTMENT OF AGRICULTURE

Forest Service

[WO–830–1030–2–241A]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCIES: Bureau of Land Management, Interior, and United States Forest Service, Agriculture.

ACTION: Notice and request for comments.

SUMMARY: The Bureau of Land Management (BLM) and the U.S. Forest Service are soliciting comments concerning the proposed three-year joint collection of information that would conduct surveys of the public in each of their users groups.

DATES: Written comments must be submitted on or before March 23, 1998 to be assured of consideration.

ADDRESSES: Send comments to John Kerwyn Keith, Management Systems Group, Business and Fiscal Resources Directorate, Bureau of Land Management, 1849 C Street, NW, Room LS1000, Washington, DC 20240 (fax: 202–452–5171, email: j55keith@wo.blm.gov).

FOR FURTHER INFORMATION CONTACT: John Kerwyn Keith at 202–452–5159.

NATURE OF COMMENTS: We specifically request your comments on the proposed collection in the following areas:

(1) Whether the collection of information is necessary for the proper functioning of BLM and the Forest Service;

(2) The accuracy of our estimates of the burden of collecting the information, including the validity of the methodology and assumptions used;

(3) The quality, utility, and clarity of the information collected; and

(4) How to minimize the burden of collecting the information on those who are to respond, including using the appropriate automated, electronic, mechanical or other forms of information technology.

SUPPLEMENTARY INFORMATION:

I. Background
II. Current Actions
III. Methodology
IV. Requests for Comments

I. Background

The Government Performance and Results Act of 1993 (Pub. L. No. 103–62) sets out to ''improve Federal program effectiveness and public accountability by promoting a new focus on results, service quality, and customer satisfaction'' (Section 2, b, 3). In order to fulfill this responsibility, the BLM and the Forest Service must collect data from their respective user groups to (1) better understand the needs and desires of the public and (2) respond to those needs and desires accordingly.

This course of action is fortified by Executive Order No. 12862, signed by the President on September 11, 1993, aimed at ''ensuring the Federal government provides the highest quality service possible to the American people.'' The Order discusses surveys as a means for determining the kinds and qualities of services desired by the Federal Government's customers and for determining satisfaction levels for existing services. These voluntary customer surveys will be used to ascertain customer satisfaction with the BLM and Forest Service in terms of services and products. Respondents will be individuals and organizations that are the recipients of the BLM and Forest Service's services and products. Previous customer surveys have provided useful information to the BLM and Forest Service for assessing how well we deliver our services and products and for making improvements. The results are used internally and summaries are provided to the Office of Management and Budget on an annual basis and are used to satisfy the requirements and spirit of Executive Order No. 12862.

Continuing to work collectively on issues that pertain to the outside public, the BLM and Forest Service anticipate performing all of their customer surveys under one three-year clearance. Where applicable, similar questions will be asked in the surveys of the two agencies, thus allowing better bench marking between the agencies.

II. Current Actions

The request to OMB will be for a three-year clearance to conduct customer surveys in the BLM and the

Forest Service. During the past clearance cycle the BLM conducted 17 customer surveys and the Forest Service conducted 9 surveys by telephone and mail. (Examples of previously conducted customer surveys are available upon request.) Our planned activities in the next three fiscal years reflect our increased emphasis on and expansion of these activities.

III. Methodology

The BLM and Forest Service survey customers in the following general categories: (1) Use requiring authorization; (2) state and private forestry; (3) timber sales; (4) wild horse and burro; (5) research; (6) law enforcement; (7) fire and aviation; (8) wildlife and fisheries; (9) recreation; (10) information [general, land, title, and technology-based]; (11) pilot programs; (12) stakeholders and partners; and (13) state and local governments.

A stratified sampling technique is employed for categories 1 through 8; categories 9 and 10 use intercept surveys; and a general sampling technique is employed for categories 11 through 13. The randomized sample pulled from the databases will include an estimated 1200 persons unless the population is less than 1200, at which point the entire user population will be surveyed. An 80% response rate goal has been set; for this reason, whenever possible telephone surveys are chosen over mail surveys.

Parallel to this effort, comment cards will be solicited from all of the above groups on an intercept basis—accompanying transaction performed with the agencies.

The questionnaires are developed with the help of focus groups from around the country. We ask questions in the following general areas: (1) Program specific (i.e., processing permits, recordation of mining claims, facilities and access to public land for recreation); (2) service delivery; (3) management practices; (4) resource protection; (5) rules, regulations, and policies; (6) communication with the public; (7) overall satisfaction; and (8) general demographics.

IV. Requests for Comments

Prospective respondents and other interested parties should comment on the actions discussed in items II & III. The following guidelines are provided to assist you in responding.

General Issues

A. Is the proposed collection of information necessary, taking into account its accuracy, adequacy, and reliability, and the agency's ability to process the information it collects in a useful and timely fashion?

B. What enhancements can the BLM and Forest Service make to the quality, utility, and clarity of the information to be collected?

As a Potential Respondent

A. The average public reporting burden for a customer survey is estimated to be .25 hours per response (13,000 respondents per year ×15 minutes per response =3250 hours annually). For comment cards, the average public reporting burden is estimated to be 3 minutes per response (30,000 respondents per year × 3 minutes per response =1500 hours annually). Burden includes the total time, effort, or financial resources expended to generate, maintain, retain, or disclose or provide the information including: (1) Reviewing instructions; (2) developing, acquiring, installing, and utilizing technology and systems for purposes of collecting, validating, verifying, processing, maintaining, disclosing, and providing information; (3) adjusting the existing ways to comply with any previously applicable instructions and requirements; (4) training personnel to respond to a collection of information; (5) searching data sources; (6) completing and reviewing the collection of information; and (7) transmitting or otherwise disclosing the information.

Please comment on (1) the accuracy of our estimate and (2) how the agencies could minimize the burden of the collection information, including the use of automated collection techniques.

B. The BLM and Forest Service estimate that respondents will incur no additional costs for reporting other than the time required to complete the collection. What is the estimated (1) total dollar amount annualized for capital and start-up costs and (2) recurring annual dollar amount of operation and maintenance and purchase of services costs associated with this data collection? The estimates should take into account the costs associated with generating, maintaining, and disclosing or providing information.

C. Do you know of any other Federal, State, or local agency that collects similar data? If you do, specify the agency, collection element (s), and the methods of collection.

As a Potential User

Are there any alternative sources of data and do you use them? If so, what are their deficiencies and/or strengths?

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of the survey. They also will become a matter of public record.

Dated: January 15, 1998.

Carole Smith,

Bureau of Land Management, Information Collection Officer.

Dated: January 8, 1998.

William Delaney,

U.S. Forest Service, Management Improvement.

[FR Doc. 98–1458 Filed 1–21–98; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–010–1990–09]

Notice of Intent; Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent to prepare a supplemental Environmental Impact Statement for the Barrick Goldstrike Mines Inc. Betze Project in the Elko and Eureka Counties, Nevada.

SUMMARY: On August 31, 1994 pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, as amended, the Bureau of Land Management, Elko Field Office published a Notice of Intent to prepare a supplemental environmental impact statement (EIS) with respect to Barrick Goldstrike Mines Inc.'s (Barrick) Betze Project. At that time, the Bureau had determined the need to prepare the Supplemental EIS to assess the environmental impacts of the pumping and water management operations associated with Barrick's mining operations. Since the Notice of Intent was published, Barrick has begun discharging water produced by groundwater pumping operations to the Humboldt River under a permit from the Nevada Division of Environmental Protection. In addition, Barrick and Elko Land and Livestock Company (ELLCO) submitted an application to amend an existing water pipeline right-of-way from 40 feet to 80 feet in width to accommodate installation of approximately 4,000 linear feet of buried 48-inch steel pipeline. The additional pipeline would be used to increase the operational efficiency of discharging water to either the Humboldt River or to irrigation and infiltration. The Bureau of Land Management is publishing this supplemental Notice of Intent to advise the public of the application to amend the right-of-way and to seek any

additional comments or concerns to be addressed in preparation of the Supplemental EIS.

EFFECTIVE DATES: This notice re-initiates public scoping for the supplemental Betze EIS. A scoping meeting will be held on February 5, 1998, at the Bureau of Land Management, Elko Field Office, 3900 E. Idaho, Elko, Nevada. The public is invited to attend the meeting scheduled from 4:30 pm until 6:30 pm to review the project and identify issues and concerns which need to be addressed in the Supplemental EIS. Representatives from the Bureau of Land Management and Barrick will be available during the meeting to answer questions. Written comments on the scope of the EIS will also be accepted until February 16, 1998. A draft supplemental environmental impact statement (DSEIS) is expected to be completed by the summer of 1998 and made available for public review and comment. At that time a Notice of Availability of the DSEIS will be published in the **Federal Register**. The comment period on the DSEIS will be 60 days from the date the Notice of Availability is published.

FOR FURTHER INFORMATION CONTACT: Scoping comments may be sent to: District Manager, Bureau of Land Management, 3900 E. Idaho St., Elko, NV 89801. ATTN: Supplemental Betze EIS Coordinator. For additional information, write to the above address or call Nick Rieger at (702) 753–0200.

SUPPLEMENTARY INFORMATION: In response to a Plan of Operations submitted in April 1989, the Bureau of Land Management, Elko Field Office prepared an environmental impact statement (EIS) with respect to Barrick's Betze Project. The Final EIS and Record of Decision for the Betze Project were issued on June 10, 1991. The Final EIS included a description of the environmental impacts projected to result from groundwater pumping conducted by Barrick to lower the local groundwater elevations below the proposed Betze mining operations. Since the Betze EIS was issued, Barrick's implementation of the pumping operations and its monitoring of groundwater elevations have provided new information regarding the pumping requirements and potential environmental impacts of pumping operations. This new information indicates that the highly transmissive area from which the groundwater is to be pumped is more extensive than projected at the time the Betze EIS was prepared. As a result, Barrick has been pumping groundwater at higher rates than projected in the Betze EIS, and a greater volume of water has been produced. In addition to delivering water to a local rancher for irrigation uses as described in the Betze EIS, Barrick has implemented reinjection and infiltration programs to return more water to the groundwater system, and has obtained approval to discharge water to the Humboldt River from the state of Nevada. Barrick and ELLCO are now proposing to install approximately 4,000 linear feet of buried 48-inch steel pipeline next to an existing pipeline they are using to discharge water to improve operational flexibility of the existing Boulder Valley water management system. The second pipeline would allow Barrick to by-pass a water treatment plant when the water is discharged for irrigation and infiltration.

In the Notice of Intent published on August 31, 1994, the Bureau proposed preparation of a supplement to the Betze EIS that would describe the new information gathered since the Betze EIS was prepared and would describe any changes in the projected environmental impacts as a result of the new information. In addition, the Bureau stated that the supplemental EIS would assess the cumulative impacts of groundwater pumping to lower elevations and for longer periods of time than is associated with mining of other deposits situated on lands within the area in which groundwater levels are being lowered. By this notice, the Bureau is proposing to expand the original scope to evaluate the environmental impacts of installing the proposed pipeline and to determine whether there may be any adverse environmental impacts that were not specifically identified in the Betze EIS that may be mitigated under the terms of the Betze Record of Decision.

In response to the initial Notice of Intent and a Dear Interested Party letter dated September 2, 1994, the Bureau received eleven written and nine oral comments. Based on these comments and the BLM's internal review, five issues of concern were identified and are currently the focus of the supplemental EIS:

Potential impacts to surface and ground water resources, including the Humboldt River;

Potential impacts to livestock operations;

Potential impacts to threatened and endangered species;

Potential impacts to riparian and wetland vegetation; and

Potential impacts to wildlife and fisheries resources.

Through this supplemental Notice, the Bureau is soliciting any additional comments on the scope of the supplemental EIS to assist the Bureau in identifying and considering additional issues and concerns to be analyzed in the supplemental EIS. Comments submitted in response to this supplemental Notice of Intent should be directed to the attention of Nick Rieger, Project Manager at the Bureau of Land Management, Elko Field Office, 3900 East Idaho Street, Elko, Nevada 89801. Comments must be received by the close of business on February 16, 1998.

Dated: January 7, 1998.

Helen Hankins,

District Manager.

[FR Doc. 98–1517 Filed 1–21–98; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–930–1060–04]

Notice of Public Hearing and Intent to Remove Wild Horses

AGENCY: Bureau of Land Management, Interior.

SUMMARY: A public meeting is scheduled for February 25, 1998 at the White Mountain Library, Rock Springs, Wyoming. A formal hearing will be conducted to receive statements from the public concerning the use of helicopters and motor vehicles in wild horse management operations within Wyoming for calendar year 1998. Prior to the hearing, planned removal operations for the year will be discussed. Periodic removals are necessary in order to maintain the populations within the AML (Appropriate Management Levels) established through the planning process as a result of monitoring and analysis of that data in accordance with the National Environmental Policy Act and BLM Policies. This document serves as a Notice of Intent to remove excess wild horses from the following Herd Management Areas (HMA):

Great Divide Resource Area

Cyclone Rim HMA—remove 260 horses from an estimated 330. AML is 70 and this action would reduce the population to AML. Begin approximately March 1, end April 10. Decision Record EA# WY–037–EA4–121/122 dated July 11, 1994.

Stewart Creek HMA—remove 100 horses from an estimated 250. AML is 150 and this action would reduce the population to AML. Begin approximately August 1. Decision

Record EA WY–037-EA4–121/122 dated July 11, 1994.

I–80 North (Outside HMA)—remove 100 of 100 horses. This action would reduce the herd to 0. Begin March 1, finish April 10. Decision Record EA# WY–037–EA1–039 dated February 21, 1992.

I–80 South (Outside HMA)—remove 275 of 275 horses. This action would reduce the herd to 0. Begin approximately August 15, finish September 15. Decision Record EA# WY–037–EA1–039 dated February 21, 1992.

Lander Resource Area

Dishpan Butte HMA—remove 40 horses from an estimated 90. AML is 75 with a range of 50–100 and this action would reduce the population to the low end of the range. Fall gather date to be selected. Decision Record EA WY–036–EA3–013 dated February 25, 1993.

Conant Creek HMA—remove 40 horses from an estimated 100. AML is 80 with a range of 60–100 and this action would reduce the population to the low end of the range. Fall Gather date to be selected. Decision Record EA# WY–036–EA3–013 dated February 25, 1993.

Crooks Mountain HMA—remove 300 of 400 horses reducing the population to approximately 100. AML range is 75 with a range of 65–100 and herd will be reduced to within this range. Fertility control research may be initiated using immunocontraception on selected mares. Should this be instituted, an environmental assessment (EA) covering this action will be prepared. Begin approximately July 6, finish August 30. Decision Record EA#'s WY–037–EA4–121 and 122 dated July 11, 1994.

Rock Springs District

Divide Basin HMA—remove 200 of an estimated 640. AML is 500 with a range of 415–600. This action would reduce the population to the lower end of the range. Begin approximately July 6, finish August 15. Decision Record EA# WY–048–EA3–87 dated May 19, 1993.

Salt Wells Creek HMA—remove 415 from an estimated population of 780. AML is 365 and this action would reduce the herd to AML. Fall gather date to be selected. Decision Record EA# WY–048–EA3–87 dated May 19,1993.

Little Colorado HMA—remove 79 of an estimated population of 156. AML is 100 and this action would reduce the herd to 77 horses or 23 below AML. Fall gather date to be selected. Decision Record EA# WY–048–EA3–87 dated May 19, 1993.

Areas Outside HMAs—remove 190 of 190 horses. This action would reduce the horses outside HMA's to 0. Begin approximately July 6, finish August 15. Decision Record EA# WY–048–EA3–87 dated May 19, 1993.

Weather conditions and other logistical considerations may dictate changes in removal/completion dates. The dates indicated are approximate, and removal may take place in any of the HMAs listed above during anytime of the year with the exception that gathers will not take place between April 16 and July 7, since this is the estimated peak of foaling in Wyoming.

Numbers presented are approximate and will be finalized by aircraft census to be conducted during January/February 1998. All actions are in conformance with Bureau of Land Management Policy, documents listed above, and current monitoring data. Horse populations will not be reduced below the lower limit of the AML range. These actions represent no new decisions.

If you have comments on the plans, please contact the Wyoming State Director at P.O. Box 1828, Cheyenne, WY 82003–1828.

DATES: February 25, 1998.

ADDRESSES: White Mountain Library, 2935 Sweetwater Dr., Rock Springs, WY, 82901–4331.

FOR FURTHER INFORMATION CONTACT: Al Pierson, State Director, 5353 Yellowstone, P.O. Box 1828, Cheyenne, WY 82003–1828.

SUPPLEMENTARY INFORMATION:

Meeting Agenda:

—Introduction and Opening Remarks

—Review of the Wild Horse Management Plan

—Video presentation of roundup activity

—Public comment period on removal plans

—Formal Hearing on the Use of helicopters in the plan

The meeting will begin at 7 p.m. and is open to the public. Interested persons may make oral statements on the subject of helicopter use during the formal hearing. All statements will be recorded.

Dated: January 15, 1998.

Alan R. Pierson,

State Director.

[FR Doc. 98–1460 Filed 1–21–98; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES–960–1420–00] ES–48890, Group 26, Illinois

Notice of Filing of Plat of Survey; Illinois

The plat, in four sheets, of the dependent resurvey of a portion of U.S. Survey No. 580, a portion of the west boundary, a portion of the subdivisional lines, and the survey of the Locks and Dam No. 27 Acquisition Boundary, Township 4 North, Range 9 West, and the survey of the Locks and Dam No. 27 Acquisition Boundary, Township 4 North, Range 10 West, both of the Third Principal Meridian, Illinois, will be officially filed in Eastern States, Springfield, Virginia at 7:30 a.m., on February 23, 1998.

The survey was requested by the U.S. Army Corps of Engineers.

All inquiries or protests concerning the technical aspects of the survey must be sent to the Chief Cadastral Surveyor, Eastern States, Bureau of Land Management, 7450 Boston Boulevard, Springfield, Virginia 22153, prior to 7:30 a.m., February 23, 1998.

Copies of the plat will be made available upon request and prepayment of the reproduction fee of $2.75 per copy.

Dated: January 12, 1998.

Stephen G. Kopach,

Chief Cadastral Surveyor.

[FR Doc. 98–1415 Filed 1–21–98; 8:45 am]

BILLING CODE 4310–GJ–P

DEPARTMENT OF JUSTICE

[AAG/A Order No. 148–98]

Privacy Act of 1974; Modified System of Records

Pursuant to the Privacy Act of 1974 (5 U.S.C. 552a), notice is given that the Department of Justice, Justice Management Division, proposes to modify a system of records entitled ''Department of Justice Payroll System, JMD–003.''

The Department is modifying the system of records to show that, pursuant to an interagency agreement, the Department provides the U.S. Department of Agriculture, National Finance Center (NFC), relevant and necessary data to perform pay-related functions on the Department's behalf. In addition, the system description, in particular the routine use disclosure section, has been extensively edited. Four new routine uses have been italicized for public convenience.

Title 5 U.S.C. 552a(e)(4) and (11) provide that the public be given a 30-day period in which to comment on the new routine uses of a system of records. The Office of Management and Budget (OMB), which has oversight responsibility under the Act, requires that it be given a 40-day period in which to review the modifications to the system.

Therefore, please submit any comments by February 23, 1998. The public, OMB, and the Congress are invited to send written comments on new or revised routine uses to Patricia E. Neely, Information Management and Security Staff, Justice Management Division, Department of Justice, Washington, D.C. 20530 (Room 850, WCTR Building).

A description of the system of records is provided below. In accordance with 5 U.S.C. 552a(r), DOJ has provided a report to OMB and the Congress on the modification of this system of records.

Dated: January 4, 1998.

Stephen R. Colgate,

Assistant Attorney General for Administration.

JUSTICE/JMD–003

SYSTEM NAME:

Department of Justice Payroll System, Justice/JMD–003.

SYSTEM LOCATION:

Payroll records in electronic or paper format may be found in the following locations:

a. *Post Conversion Records.*[1] As of May 1993, payroll information in electronic format is located on a computer maintained by the NFC in New Orleans, Louisiana; and at backup facilities in Philadelphia. Relevant data may also be stored on Justice Data Center Computers at the Department of Justice for use in distributing accounting information to the individual Bureaus. Paper and electronic payroll information may be kept at various time and attendance recording and processing stations around the world. Paper records may be located in the Department's Personnel Staff, in servicing personnel offices throughout the Department, and in the offices of employee supervisors and managers.

b. *Pre-conversion Records.* Historical data is stored on magnetic tape at the Justice Data Center in Rockville, Maryland, and on microfiche by the Department's Finance Staff. Historical data in paper format may also be located in the Department's Finance and Personnel Staffs, in servicing personnel offices, and in the offices of employee supervisors and managers.

[1] The Department has contracted with the Department of Agriculture's National Finance Center (NFC) to maintain payroll information and conduct payroll-related activities for its employees. Conversion began in July of 1991 and was incrementally completed as of May of 1993.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former DOJ employees (excluding the FBI).

CATEGORIES OF RECORDS IN THE SYSTEM:

Any and all records essential to the conduct of payroll-related activities. Included may be:

—Personal Identifying/personnel data
—Time and attendance records
—Leave records
—Allotment or deduction information such as bonds, garnishments, health benefits, life insurance, Thrift Savings Plan and other savings, retirement, and union dues.
—Travel and Relocation information
—Court orders to initiate garnishments
—Check mailing information
—Tax, withholding, and exemption information
—Accounting and organization funding information
—Salary, severance pay, award, and bonus information; active retirement records
—Former employee pay records
—Employee death records
—Returned employee check records
—Indebtedness records, e.g., overpayment of pay or travel

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Budget and Accounting Act of 1950, as amended, 31 U.S.C. 66, 66a, and 20(a).

PURPOSE(S):

This system of records is maintained to enable the Department to administer the payroll and payroll-related functions, and any other related financial matters, in accordance with applicable laws and regulations and the requirements of the General Accounting Office (GAO) and the Office of Personnel Management (OPM). It enables the Department to prepare and document payment to all Department employees entitled to be paid and to effect all authorized deductions from gross pay; to coordinate pay, leave and allowance operations with personnel functions and other related activities; meet internal and external reporting requirements; support investigations of fraud, the collection of debts, and litigation activities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Pursuant to Subsection (b)(3) of the Privacy Act, the Department of Justice (DOJ) may disclose relevant and necessary data as follows:

In accordance with an interagency agreement (as provided for in Office of Management and Budget (OMB) implementing regulations (40 FR 28948)), the DOJ may disclose to the U.S. Department of Agriculture (USDA), National Finance Center (NFC), in order to effect all financial transactions on behalf or the DOJ related to employee pay.

Specifically, the NFC may effect employee pay or deposit funds on behalf of DOJ employees, and/or it may withhold, collect or offset funds from employee salaries as required by law or as necessary to correct overpayment or amounts due. For example, the NFC will routinely make the necessary disclosures to Treasury for the issuance of checks; to Federal, State, and local authorities and the Social Security Administration for tax withholdings; and, according to employee directions, to the appropriate financial institutions, charitable organizations, unions, health carriers, or other appropriate entities to effect such pay distributions as savings bonds, charitable contributions, allotments, alimony, child support, union dues, and health and life insurance. In addition, the NFC will use the data to perform related administrative activities such as to certify payroll vouchers chargeable to DOJ funds; and either to perform or participate in routine audit/oversight operations of USDA/DOJ management and/or of GAO, OMB, and OPM; and to meet related reporting requirements.

In addition, based on such data as the DOJ has input to the NFC data base for these purposes, the DOJ may subsequently make a paper request, or an electronic request to the NFC data base, for information which will allow the DOJ to disclose relevant information as follows; or, where appropriate or necessary, DOJ may authorize the NFC to make the disclosure:

To Federal, State, or local housing authorities to enable these authorities to determine eligibility for low cost housing.

To heirs, executors and legal representatives of beneficiaries for estate settlement purposes.

To State and local courts of competent jurisdiction for the enforcement of child support, alimony, or both, pursuant to 41 U.S.C. 659.

To individuals, organizations, or agencies to enable such person,

organization, or agency to determine the identity or location of a current or former Federal employee to collect debts owed, where collection of such debts are authorized (either by statute, implementing regulation, or order issued pursuant thereto) and the individual, organization, or agency, has provided sufficient evidence as will reasonably validate such claims, e.g., where a spouse or creditor seeking to obtain a garnishment of wages for such purposes as alimony and/or child support has provided a court order to substantiate the indebtedness. Information relevant to the request for such garnishment may include informing the individual, organization, or agency of the unavailability of funds where, for example, a currently active garnishment precludes the implementation of a further garnishment.

To the Office of Child Support Enforcement (OCSE), Administration for Children and Families, Department of Health and Human Services, any information specifically required by statute or implementing regulation or otherwise determined to be necessary and proper for OCSE's use (as outlined more specifically in relevant OCSE published systems of records) in locating individuals owing child support obligations, and in establishing and collecting child support obligations from such individuals, including enforcement action. Information disclosed may include: Name, address, date of birth, date of hire, duty station, and social security number of the employee; the wages paid to the employee during the previous quarter; and the appropriate address and Federal Employer Identification Number of the Department of Justice.

To the appropriate Federal, State, or local agencies, e.g., to State unemployment agencies and/or the Department of Labor, to assist these agencies in performing their lawful responsibilities in connection with administering unemployment, workers' compensation, or other benefit programs; and similarly, to such agencies to obtain information that may assist the Department of Justice in performing its lawful responsibilities as they relate to such benefit programs.

To labor organizations recognized under 5 U.S.C., Chapter 71, the home addresses or designated mailing addresses of bargaining unit members.

In the event that a record(s), either on its face or in conjunction with other information, indicates a violation or a potential violation of law, whether civil, criminal or regulatory in nature, to the agency charged with enforcing or implementing such law.

To the Internal Revenue Service (IRS) to obtain taxpayer mailing addresses for the purpose of locating such taxpayer to collect or compromise a Federal claim against the taxpayer.

To a person or organization with whom the head of the agency has contracted for collection services to recover indebtedness owed to the United States. Addresses of taxpayers obtained from the IRS will also be disclosed, but only where necessary to locate such taxpayer to collect or comprise a Federal claim.

To a Federal, State, local, or foreign agency or to an individual or organization if there is reason to believe that such agency, individual, or organization possesses information relating to the debt, the identity or location of the debtor, the debtor's ability to pay, or relating to any other matter which is relevant and necessary to the settlement, effective litigation and enforced collection of the debt, or relating to the civil action trial or hearing, and the disclosure is reasonably necessary to elicit such information or to obtain the cooperation of a witness or an agency.

To employees to effect salary or administrative offsets to satisfy a debt owed the United States by that person; or when other collection efforts have failed, to the IRS to effect an offset against an income tax refund otherwise due.

To the news media and the public pursuant to 28 CFR 50.2 unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

To a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

To the National Archives and Records Administration and the General Services Administration for use in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

In a proceeding before a court or adjudicative body before which the Department is authorized to appear when any of the following is a party to litigation or has an interest in the litigation and such records are determined by the Department to be arguably relevant to the litigation: The Department, or any of the Department's components or their subdivisions; any Department employee in his/her official capacity, or in his/her individual capacity where the Department of Justice agrees to represent the employee; or the United States where the Department determines that the litigation is likely to affect it or any of the Department's components or their subdivisions.

Consistent with the foregoing routine use provisions, the Department may disclose records from this system of records for use in a computer matching program (as defined in the Privacy Act, 5 U.S.C. section 552a(8)). In accordance with the requirements of the Privacy Act, the public will be given advance notice in the **Federal Register** of the Department's participation in any such computer matching program(s).

In addition to the above routine use disclosures under subsection (b)(3) of the Privacy Act, the DOJ may retrieve from the NFC data base information which will enable the DOJ to make relevant and necessary disclosures pursuant to any of the other relevant and appropriate Privacy Act disclosure provisions.

Finally, 31 U.S.C. 3711 requires that the notice required by section 552a(e)(4) of title 5 must indicate that information in the system may be disclosed to a consumer reporting agency pursuant to subsection (b)(12). Such notice is provided as follows:

Notice of Disclosure to Consumer Reporting Agencies Under Subsection (b)(12) of the Privacy Act: Records relating to the identity of debtors and the history of claims may be disseminated to consumer reporting agencies to encourage payment of the past-due debt. Such disclosures will be made only when a claim is overdue and only after due process steps have been taken to notify the debtor and give him or her a chance to meet the terms of the debt.

(Any disclosures that may be made for debt collection purposes, whether made pursuant to subsection (b)(3) or (b)(12), would be made only when all the relevant due process or procedural steps established by the relevant statutes and implementing regulations have been taken.)

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored on computer disks, magnetic tapes, microfiche and on paper.

RETRIEVABILITY:

Records are retrieved by name and social security number.

SAFEGUARDS:

Access to premises where records are stored is restricted via building passes and security guards. Access to all records is supervised and restricted to those employees with a need to know. In addition, access to computerized records is protected by encryption, password and appropriate user ID's.

RETENTION AND DISPOSAL:

Records are disposed of in accordance with General Records Schedule No. 2 as promulgated by the General Services Administration.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Personnel Staff, Justice Management Division, Department of Justice, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Suite 5206, Washington, DC 20530.

NOTIFICATION PROCEDURE:

The individual may address inquiries to the servicing personnel office of the Department component(s) by which he/she is or was employed. Addresses of Department components may be found in Appendix I., to part 16 of the Code of Federal Regulations. The individual may also address his/her request to the system manager named above.

RECORD ACCESS PROCEDURE:

Same as above.

CONTESTING RECORD PROCEDURE:

Same as above.

RECORD SOURCE CATEGORIES:

Individuals covered by the system; personnel offices; time and attendance clerks; supervisors, administrative officers, other officials; financial institutions or employee organizations; previous Federal employers; consumer reporting agencies; debt collection agencies; and the courts.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 98–1524 Filed 1–21–98; 8:45 am]

BILLING CODE 4410–AR–M

DEPARTMENT OF JUSTICE

[AAG/A Order No. 145–97]

Privacy Act of 1974; Altered System of Records

Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), notice is hereby given that the Department of Justice proposes to modify a system of records maintained by the Immigration and Naturalization Service (INS). The system is entitled the ''Employee Assistance Program (EAP) Treatment Referral Records, JUSTICE/INS–019,'' and was last published on October 10, 1995 (60 FR 52701).

The system notice, printed below, has been modified to reflect a reorganization of the EAP program. Clinical records will no longer be maintained on behalf of INS by Health and Human Services and Office of Personnel Management (pursuant to an interagency agreement), nor by a variety of private contractors. Nor will administrative records be maintained by EAP Coordinators in INS regional offices. The program has been consolidated to include only the EAP Manager at INS headquarters, a prime contractor, and subcontractors or ''therapists'' as necessary. The prime contractor and therapists are commonly referred to as ''contract providers.'' The EAP manager and the contract providers may maintain both administrative and clinical records as appropriate.

The following captions of the notice have been redrafted to reflect the organizational changes: ''System Locations,'' ''Categories of Individuals Covered by the System,'' and ''Categories of Records in the System.'' In addition, other sections of the notice have been appropriately edited, including the ''Routine Use'' disclosure section.

The Office of Management and Budget (OMB), which has oversight responsibility under the Act, requires a 40-day period in which to conclude its review of the system modification. In addition, 5 U.S.C. 552a(e) (4) and (11) provide that the public be given a 30-day period in which to comment on new routine uses of a system of records. However, no ''new'' routine uses have been added; only minor edits have been made to the Routine use section of the notice. Nevertheless, the public, as well as OMB and the Congress, are invited to submit any comments to Patricia E. Neely, Program Analyst, Information Management and Security Staff, Justice Management Division, Department of Justice, Washington, DC 20530 (Room 850, WCTR Building).

In accordance with 5 U.S.C. 552a(r), the Department has provided a report to OMB and the Congress.

Dated: December 16, 1997.

Stephen R. Colgate,

Assistant Attorney General for Administration.

JUSTICE/INS–019

SYSTEM NAME:

Employee Assistance Program (EAP) Treatment Referral Records.

SYSTEM LOCATIONS:

Records are maintained by the EAP Manager/therapist at the Immigration and Naturalization Service (INS) headquarters office and at facilities under contract with INS to provide treatment and other services related to the administrative and financial management of the EAP program, i.e., contract providers. INS headquarters address is 425 I Street, NW, Washington, DC 20536. Addresses of the contract providers may be obtained by contacting the EAP Manager at INS headquarters.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former INS employees who have sought counseling and/or have been referred to the INS EAP Manager, EAP Specialist, or directly to the INS EAP contract providers for counseling and/or treatment. To the limited degree that counseling and treatment may be provided to family members of these employees, these individuals, too, are covered by the system.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records include any records which may assist in diagnosing, evaluating, counseling and/or treating the employee. Included are the therapist's intake/termination outcome forms, therapist case notes; pertinent psychosocial, medical and employment histories; medical tests or screenings, including drug and alcohol tests and information on confirmed unjustified positive drug tests generated by the staff of the Drug Free Workplace Program and the Medical Review Officer and provided by the EAP Manager or the employee's supervisor; treatment and rehabilitation plans as well as behavioral improvement plans; and records of treatment referrals. Referrals include those to community treatment resources when employees request legal, financial or other assistance not related to psychological or medical health. Where such referrals have been made, records may include relevant information related to such counseling, diagnosis, prognosis, treatment, and evaluation, together with follow-up data. Also included are written consent forms used to manage referrals and the flow of information. Finally, records include account information such as contract provider billings and INS payments.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 290dd, et seq., and 290ee, et seq.; 42 CFR part 2; Executive Order 12564; 5 U.S.C. 3301 and 7901; 44

U.S.C. 3101 and Pub. L. 100–71, sec. 503 (July 11, 1987).

PURPOSE:

The EAP is a voluntary program designed to assist the recovery of employees who are experiencing one or more of a variety of personal or behavioral problems (e.g., marital, financial, substance abuse). Records are maintained to document referral and participation in the EAP program; the nature and effects of the employee's personal or behavioral problem(s); efforts to counsel, treat, and rehabilitate the employee; and progress made in attaining his/her full recovery. Records may be used also to track compliance with agreements made to mitigate discipline based upon treatment (abeyance agreements).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures permitted by the Privacy Act itself,[1] 5 U.S.C. 552a(b), permissive disclosures without individual consent, are as follows:

1. Pursuant to subsection (m) of the Privacy Act, the contract providers maintain EAP records on behalf of INS. Therefore, in addition to those records which are given directly to the contract provider by the record subject, other records collected directly by INS may be disclosed by INS to the contract provider to the extent that it is appropriate, relevant, and necessary to enable the contract provider to perform his or her counseling, treatment, rehabilitation, and evaluation responsibilities. Similarly, records collected directly by the contract provider may be disclosed by the contract provider to the EAP Manager to the extent that it is appropriate, relevant and necessary to enable the EAP Manager to perform his or her counseling, program management and policy, and evaluation responsibilities.

2. Relevant information may also be disclosed from this system of records as follows:

a. To appropriate State or local authorities to report, under State law, incidents of suspected child abuse or neglect.

b. To any person or entity to the extent necessary to prevent an imminent and potential crime which directly threatens loss of life or serious bodily injury.

[1] To the extent that release of alcohol and drug abuse records is more restricted than other records subject to the Privacy Act, INS will follow such restrictions. See 42 U.S.C. 290dd and 290ee.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in locked file cabinets and a computerized environment.

RETRIEVABILITY:

Records are retrieved by a case number which is cross referenced to a name by the computer.

SAFEGUARDS:

In accordance with the requirements of 42 CFR 2.16, records are stored in a secure environment. *Paper records are stored in locked files and computerized records are password protected.* In addition, all paper records, e.g., case files, billings and payment vouchers, are identified by case number only and cannot be identified by a name until they are cross-referenced by the computer system to a name.

Records may be accessed within the EAP Program by designated EAP Program individuals based on their need-to-know to perform their duties. No records will be disclosed except with the written consent of the individual, or as indicated under the routine use disclosure outlined in this notice.

RETENTION AND DISPOSAL:

Records are retained for three years after the individual ceases contact with the counselor unless a longer retention period is necessary because of pending administrative or judicial proceedings. In such cases, the records are retained for six months after the case is closed. Records are destroyed by shredding or burning (General Records Schedules 26 and 36).

SYSTEM MANAGER(S) AND ADDRESSES:

EAP Manager, Immigration and Naturalization Service, 425 I Street, NW, Washington, DC 20536.

NOTIFICATION PROCEDURE:

Same as record access procedures.

RECORDS ACCESS PROCEDURES:

Address all requests for access to records to the system manager identified above. Address all requests for records maintained by the contract provider to that provider. Addresses of these offices may be obtained by contacting the EAP *Manager.* Clearly mark the envelope and letter ''Privacy Act Request.'' Provide the full name and notarized signature of the individual who is the subject of the record, the dates during which the individual was in counseling, any other information which may assist in identifying and locating the record, and a return address.

CONTESTING RECORDS PROCEDURES:

Direct all requests to contest or amend information in accordance with procedures outlined under Record Access Procedures. State clearly and concisely the information being contested, the reason for contesting it, and the proposed amendment thereof. Clearly mark the envelope ''Privacy Act Amendment Request.''

RECORD SOURCE CATEGORIES:

Records are generated by the employee who is the subject of the record; *EAP Manager, EAP Specialists, and EAP contract facilities/providers;* the personnel office; and the employee's supervisor. In the case of drug abuse counseling, records may also be generated by the staff of the Drug Free Workplace Program and the Medical Review Officer.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 98–1525 Filed 1–21–98; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention

[OJP(OJJDP)–1155]

Meeting of the Coordinating Council on Juvenile Justice and Delinquency Prevention

AGENCY: Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention (OJJDP), Justice.

ACTION: Notice of meeting.

SUPPLEMENTARY INFORMATION: A meeting of the Coordinating Council on Juvenile Justice and Delinquency Prevention will take place in the District of Columbia, beginning at 2:00 p.m. on Tuesday, February 3, 1998 and ending at 4:00 p.m. on February 3, 1998. This advisory committee, chartered as the Coordinating Council on Juvenile Justice and Delinquency Prevention, will meet at the White House Conference Center, located at 726 Jackson Place, Truman Room, Washington, D.C. 20503. The Coordinating Council, established pursuant to Section 3(2)A of the Federal Advisory Committee Act (5 U.S.C., App. 2), will meet to carry out its advisory functions under Section 206 of the Juvenile Justice and Delinquency

Prevention Act of 1974, as amended. This meeting will be open to the public. For security reasons, members of the public who are attending the meeting must contact the Office of Juvenile Justice and Delinquency Prevention (OJJDP) by close of business January 29, 1998. Please note: Photo identification will be required to be admitted to the Conference Center. The point of contact at OJJDP is Lutricia Key who can be reached at (202) 307–5911.

Dated: January 15, 1998.

Shay Bilchik,

Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 98–1486 Filed 1–21–98; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of December, 1997 and January, 1998.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations for Worker Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–33,954 & A; Color-Clings, Inc., Plymouth, MN and Bloomington, MN

TA–W–34,039; F.R. Gross Co., Inc., Warren, PA

TA–W–33,656; Garden Way, Inc., Port Washington, WI

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

TA–W–34,055; TRW/Auto Electronics Group of North America, Switch Product Line and Profit Center, Auburn, NY

The predominant cause of separations at the subject firm is the transfer of production of switch components abroad for assembly there. The subject firm is importing switches at a later stage of production, not the switch components produced at the subject plant.

TA–W–34,103; Jostens, Inc., Recognition Div., Princeton, IL

TA–W–33,900; Whirlpool Corp., Evansville, IN

TA–W–33,896 & A; Applied Materials, Inc., Austin, TX and Santa Clara, CA

TA–W–33,996; Brownsville Products, Brownsville, TX

TA–W–34,053; Frontier Corp., Rochester, NY

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–33,989; Allegheny Ludlum Corp., Leechburg, PA

The investigation revealed that criteria (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA–W–34,053; Frontier Corp., Rochester, NY

TA–W–33,959; Electra-Sound, Inc., Parma, OH

TA–W–33,980; Lockheed Martin Corp., Ocean Radar & Sensor Systems Plant Protection Unit, Liverpool, NY

The workers firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–33,906; Sunbeam, Shubuta, MS

Sunbeam made a decision to transfer production from the subject plant to another domestic facility.

TA–W–33,796; Drummond Co., Inc., Birmingham, AL

U.S. imports of coal were negligible in 1996 and in January through June 1997.

TA–W–33,946; Chevron USA Production Co. A Div. of Chevron USA, Inc., (''CPDN''), Headquartered in Houston, TX & Operating at Various Locations in the Following States: A; AL, B; CA, C; CO, D; LA, E; MS, F; NM, G; OK, H; TX, I; UT, J; WY

The investigation revealed that criteria (2) and criteria (3) have not been met. Sales or production did not decline during the relevant period as required for certification. Increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have not contributed importantly to the separations or threat thereof, and the absolute decline in sales or production.

TA–W–34,047; John Wiley & Sons, Inc., Wiley Law Publications, Colorado Springs, CO

A change in corporate ownership of this division resulted in a transfer to other domestic locations of the publishing of legal texts and caused the separations of workers at the subject facility.

TA–W–33,974; Lightalarms Electronic Corp., Baldwin, NY

The decline in employment at the subject firm is attributed to a shift in production to another location in St. Matthews, S.C. The Operation is being consolidated with two other affiliated facilities in which domestic company employment will increase.

Affirmative Determinations for Worker Adjustment Assistance

The following certification have been issued; the date following the company name and location of each determination references the impact date for all workers of such determination.

TA–W–33,942; Woodgrain Millwork, Inc., Lakeview, OR: October 14, 1996.

TA–W–34,019; Signal Apparel, New Tazewell, TN: November 14, 1996.

TA–W–33,837; Russell Corp., Cummings, GA: August 15, 1996.

TA–W–33,951; Robinson Manufacturing Co., Linden, TN; October 15, 1996.

TA–W–34,045; ITT Automotive, Archbold, OH: March 17, 1996.

TA–W–33,964; International Flavors & Fragrances, Inc., North American Fragrance Div., Union Beach, NJ: October 21, 1996.

TA–W–33,961; Teledyne Fluid Systems, Efficient Die & Mold Div., Independence, OH: October 17, 1996.

TA–W–33,981; Shenandoah Knitting Mills, Edinburg, VA: October 29, 1996.

TA–W–33,973; A.O. Smith EPC, Upper Sandusky, OH: October 23, 1996.

TA–W–34,23 & A; Spencer's, Inc., Hillsville, VA and Stuart, VA: November 7, 1996.

TA–W–33,911; Almark Mills, Inc., Dawson, GA: October 3, 1996.

TA–W–33,921; Tru-Stitch Footwear, Bombay, NY: October 6, 1996.

TA–W–34,088; Swansboro Garment Co., Inc., Swansboro, NC: November 24, 1996.

TA–W–34,061; Oxford of Alma, Oxford Women's Catalog & Special Markets Div., Alma, GA: November 19, 1996.

TA–W–33,901; Oregon Woodworking Co., Bend, OR: October 3, 1996.

TA–W–34,017; Marathon Electric Manufacturing Corp., York, PA: November 1, 1996.

TA–W–34,080; Thunderbird Moulding Co., Yreka, CA: November 24, 1996.

TA–W–33,995; Eaton Corp., Appliance & Specialty Controls Div., Athens, AL: October 21, 1996.

TA–W–33,795; Patrilda Sportswear, Montgomery, PA: August 25, 1996.

TA–W–33,987; Dublin Garment Co., Inc., Dublin, VA: October 27, 1996.

TA–W–33,976; Trade Apparel, Inc., El Paso, TX: October 17, 1996.

TA–W–33,977; Falcon Industries, Inc., Graham, TX: October 23, 1996.

TA–W–33,924; International Wire Insulated Wire Div., Bremen, IN: October 6, 1996.

Also, pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance hereinafter called (NAFTA–TAA) and in accordance with Section 250(a), Subchaper D, Chaper 2, Title II, of the Trade Act as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for NAFTA–TAA issued during the month of December, 1997 and January, 1998.

In order for an affirmative determination to be made and a certification of eligibility to apply for NAFTA–TAA the following group eligibility requirements of Section 250 of the Trade Act must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof (including workers in any agricultural firm or appropriate subdivision thereof), have become totally or partially separated from employment and either—

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely,

(3) That imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivision have increased, and that the increases in imports contributed importantly to such workers' separations or threat of separation and to the decline in sales or production of such firm or subdivision; or

(4) That there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

Negative Determinations NAFTA–TAA

In each of the following cases the investigation revealed that criteria (3) and (4) were not met. Imports from Canada or Mexico did not contribute importantly to workers' separations. There was no shift in production from the subject firm to Canada or Mexico during the relevant period.

NAFTA–TAA–01894; Jostens, Inc., Recognition Div., Princeton, IL

NAFTA–TAA–01949; Almark Mills, Inc., Dawson, GA

NAFTA–TAA–01797; Garden Way, Inc., Port Washington, WI

NAFTA–TAA–02009; Dublin Garment Co., Inc., Dublin, VA

NAFTA–TAA–01958; Oregon Woodworking Co., Bend, OR

NAFTA–TAA–01970; Tru-Stitch Footwear, Bombay, NY

NAFTA–TAA–01664; AlliedSignal, Inc., Commercial Avionics Systems, Fort Lauderdale, FL

NAFTA–TAA–01996; Fonda Group, Three Rivers, MI

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

NAFTA–TAA–02004; Electra-Sound, Inc., Parma, OH

NAFTA–TAA–02001; Lockheed Martin Corp., Ocean, Radar and Sensor Systems Plant Protection Unit, Liverpool, NY

The investigation revealed that the workers of the subject firm did not produce an article within the meaning of Section 250(a) of the Trade Act, as amended.

Affirmative Determinations NAFTA–TAA

NAFTA–TAA–01799; Boise Cascade Corp., Timber Div.—Elgin Stud Mill, Elgin, OR: May 22, 1996.

NAFTA–TAA–01904; Thomson Consumer Electronics, Television Operations, Americas, Bloomington, IN: October 6, 1997.

NAFTA–TAA–01918; Elkin Valley Apparel Co., Inc., Elkin, NC: September 15, 1996.

NAFTA–TAA–01898; Frolic Footwear Div. of Wolverine World Wide, Jonesboro, AR: August 21, 1996.

NAFTA–TAA–01992; Trade Apparel, Inc., El Paso, TX: October 17, 1996.

NAFTA–TAA–02048; Oxford of Alma, Oxford Women's Catalog and Special Markets Division, Oxford Industries, Inc., Alma, GA: November 24, 1996.

NAFTA–TAA–02007; Brownsville Products, Brownsville, TX: November 3, 1996.

NAFTA–TAA–02042; Swansboro Garment Co., Inc., Swansboro, NC: November 24, 1996.

NAFTA–TAA–02008; Shenandoah Knitting Mills, Edinburg, VA: October 31, 1996.

NAFTA–TAA–02069; Essilor Lenses, Essilor of America, St. Petersburg, FL: March 24, 1997.

NAFTA–TAA–02041; International Wire, Insulated Wire Division, Bremen, IN: November 7, 1996.

NAFTA–TAA–01980; Woodgrain Millwork, Inc., Lakeview, OR: October 14, 1996.

NAFTA–TAA–02028; ITT Automotive, Inc., Archbold, OH: November 17, 1996.

NAFTA–TAA–02037; TRW/Auto Electronics Group of North America, Switch Product Line and Profit Center Auburn, NY: November 10, 1996.

NAFTA–TAA–01989; A.O. Smith, EPC., Upper Sandusky, OH: October 23, 1996.

NAFTA–TAA–02016; Unbro North America, Unbro International, Fairbluff, NC: October 28, 1996.

I hereby certify that the aforementioned determinations were issued during the month of December 1997 and January 1998. Copies of these determinations are available for inspection in Room C–4318, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: January 9, 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 98–1471 Filed 1–21–98; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–33,487; TA–W–33,487A; TA–W–33,487B; TA–W–33,487C; NAFTA 01649; NAFTA 01649A; NAFTA 01649B; NAFTA 01649C]

Medite Corporation; Corporate Office, Medford Oregon; MDF Plant, Medford, Oregon; Veneer Division, Rogue River, Oregon; Forestry Division, Medford, Oregon; and Corporate Office, Medford Oregon; MDF Plant, Medford Oregon; Veneer Division, Rogue River, Oregon; Forestry Division, Medford, Oregon; Notice of Negative Determination on Reconsideration

On September 22, 1997, the Department issued an Affirmative Determination Regarding Application for Reconsideration for the workers and former workers of the subject firm. The petitioner presented new evidence that the collection of information regarding company sales and imports was incomplete for the time period relevant to the investigation. The notice was published in the **Federal Register** on September 30, 1997 (62 FR 51156).

The Department initially denied TAA to workers of Medite Corporation because the ''contributed importantly'' group eligibility requirement of Section 222(3) of the Trade Act of 1974, as amended, was not met. The workers at the subject firm were engaged in employment related to the production of lumber products.

On reconsideration, the Department requested that Medite Corporation provide additional customers for the various Medite facilities included in the petition. A survey of the major customers of Medite Corporation revealed that imports did not contribute importantly to the worker separations. All but one of the customers survey revealed that they are still purchasing domestic lumber products. The one customer that indicated some product was being produced outside the U.S. had declining imports during the relevant time period.

Conclusion

After reconsideration, I affirm the original notice of negative determination of eligibility to apply for worker adjustment assistance for workers and former workers of Medite Corporation in Medford and Rogue River, Oregon.

Signed at Washington, DC, this 24th day of December 1997.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 98–1476 Filed 1–21–98; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–33,829 AND NAFTA–01932]

Trans World Airlines Kansas City Overhaul Base, Kansas City, Missouri; Notice of Negative Determination Regarding Application for Reconsideration

By application of December 5, 1997, the International Association of Machinists and Aerospace Workers (IAMAW) requested administrative reconsideration of the Department's negative determination regarding worker eligibility to apply for Trade Adjustment Assistance (TAA) and NAFTA-Transitional Adjustment Assistance (NAFTA–TAA), applicable to workers and former workers of the subject firm.

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) if it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) if in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The TAA and NAFTA–TAA petitions, filed on behalf of workers who repaired and overhauled aircraft and aircraft parts, were denied on September 30, 1997, on the basis that the workers did not produce an ''article'' within the meaning of Section 222(3) and Section 250(a) of the Trade Act of 1974, as amended, but rather performed services.

In support of their application for reconsideration, the IAMAW contended that ''[t]he overhauling process [performed by the petitioning workers on aircraft] takes what had become worthless parts and/or assemblies [and] remanufactures and transforms them into unique and marketable products,'' enabling aircraft or their parts to satisfy Federal Aviation Administration airworthiness requirements.

This contention is insufficient to support the granting of reconsideration. *Pemberton* v. *Marshall,* 639 F.2d 798 (D.C. Cir. 1981) found a similar contention insufficient to support certification. In that case, the workers alleged that their repair and overhaul of ships constituted a ''remanufacturing'' of an ''article.'' The Court reasoned that ''[e]ven if the repair necessitates the use of new materials, it cannot be said to be the creation of a new ship * * * the same item was also the end product.'' *Id.* at F.2d 800. Similarly here, although the petitioners contend that their employment conferred ''new life'' on aircraft and aircraft parts, no ''new and different article'' was created. *Nagy* v. *Donovan,* 571 F.Supp. 1261, 1265 (Ct. Int'l. Trade 1983). Rather, ''[t]here was no transformation, but a mere refurbishing of what already existed'' (*Pemberton,* at F.2d 800), permitting old aircraft and aircraft parts to meet airworthiness requirements.

Thus, the application for reconsideration does not alter the conclusion that the workers did not create new articles, but rather serviced existing ones by overhauling and repairing aircraft and aircraft parts. Accordingly, the petitioners' contention is insufficient to support reconsideration.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decisions. Accordingly, the application is denied.

Signed at Washington, D.C. this 5th day of January 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 98–1472 Filed 1–21–98; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility to Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Acting Director of the Office of Trade Adjustment Assistance,

Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date of which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address show below, not later than February 2, 1998.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 2, 1998.

The petitions filed in this case are available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC this 29th day of December, 1997.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

APPENDIX

[Petitions Instituted on 12/29/97]

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
34,119	American Trouser, Inc (Comp)	Houston, MS	12/15/97	Men's Dress and Casual Slacks.
34,120	Alcoa Fujikura EMP (Wrks)	Owosso, MI	12/11/97	Windshield Wiper Components.
34,121	C.R. Bard, Inc (Comp)	Billerica, MA	12/12/97	Diagnostic Catheters.
34,122	Diversified Plastics, Inc (Wrks)	Elk Grove Vill., IL	12/10/97	Picture Frames.
34,123	General Electric Co (IUE)	Rome, GA	12/15/97	Transformers—Medium & Sub-Station.
34,124	Wilson Sporting Goods Co (Wrks)	Chicago, IL	12/07/97	Sport Shoes.

[FR Doc. 98–1481 Filed 1–21–98; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–33,966]

Cason Manufacturing Company Stephenville, Texas; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on November 24, 1997, applicable to all workers of Cason Manufacturing Company, Stephenville, Texas. The notice was published in the **Federal Register** on December 10, 1997 (62 FR 65100).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. New findings show that the Department incorrectly limited the certification to ''all workers engaged in employment related to the production of women's pants and skirts.'' The intent of the Department's certification is to include ''all workers'' of Cason Manufacturing Company, Stephenville, Texas adversely affected by increased imports.

The Department is amending the certification determination to correctly identify the worker group to read ''all workers.''

The amended notice applicable to TA–W–33,966 is hereby issued as follows:

All workers at Cason Manufacturing Company, Stephenville, Texas who became totally or partially separated from employment on or after October 24, 1996 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 11th day of January 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 98–1468 Filed 1–21–98; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–33,767; TA–W–33,767G; TA–W–33,767H]

Fruit of the Loom; Martin Mills, Inc. D/B/A St. Martinville Mills; Including Former Employees of Jeanerette Mills St. Martinville, Louisiana; Jackson Distribution Center; Division of Sherman Warehouse Corporation Jackson, Mississippi; Wadesboro Warehouse; Division of Martin Mills, Incorporated Wadesboro, North Carolina; Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Notice of Certification Regarding Eligibility to Apply for Worker Adjustment Assistance on August 29, 1997, applicable to workers of Fruit of the Loom, Martin Mills, Inc., located in St. Martinville, Louisiana. The notice was published in the **Federal Register** on September 30, 1997 (62 FR 51152). The certification was amended on September 14, 1997 and again on December 1, 1997, to include Martin Mills, Incorporated in St. Martinville, Louisiana is doing business as St. Martinville Mills, and to cover the workers of the subject firm whose wages were reported under the separate Unemployment Insurance tax account

for Jeanerette Mills, Jeanerette, Louisiana.

The notices of amended certifications were published in the **Federal Register** on September 30, 1997 (62 FR 51155) and December 10, 1997 (62 FR 65099) respectively.

At the request of the company, the Department reviewed the certification for workers of the subject firm. The company reports that worker separations occurred at the Jackson Distribution Center, Jackson, Mississippi and the Wadesboro Warehouse, Wadesboro, North Carolina when they both closed in November 1997. The workers at both the Jackson Distribution Center and the Wadesboro Warehouse were involved in the warehouse, repacking and distribution of T-shirts, briefs, boxers and A-shirts manufactured by Fruit of the Loom.

The intent of the Department's certification is to include all workers of Fruit of the Loom adversely affected by increased imports of underwear.

The amended notice applicable to A–AW–33,767 is hereby issued as follows:

All workers of Fruit of the Loom, Martin Mills, Inc., doing business as St. Martinville Mills, including former employees of Jeanerette Mills, St. Martinville, Louisiana (TA–W–33,767) and Jackson Distribution Center, Division of Sherman Warehouse Corporation, Jackson, Mississippi (TA–W–33,767G) and Wadesboro Warehouse Warehouse, Division of Martin Mills, Incorporated, Wadesboro, North Carolina (TA–W–33,767H), who became totally or partially separated from employment on or after August 14, 1996, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed in Washington, D.C. this 11th day of January 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 98–1466 Filed 1–21–98; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–34,065]

General Motors Corporation, Delphi Division, Albany, New York; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on December 8, 1997, in response to a worker petition which was filed on behalf of workers at Delphi Division of General Motors, Albany, Georgia.

The petitioning group of workers is subject to an ongoing investigation for which a determination has not yet been issued (TA–W–34, 060). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, D.C. this 21st day of December, 1997,

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 98–1475 Filed 1–21–98; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–34,007]

International Watchmakers Mission, Viejo, California; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on November 17, 1997, in response to a petition filed by a company official on behalf of workers at International Watchmakers Mission, Viejo, California.

Investigation revealed that all workers were separated from the subject firm more than one year prior to the date of the petition. Section 223 of the Act specifies that no certification may apply to any worker whose last separation occurred more than one year before the date of the petition. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, D.C. this 23rd day of December, 1997.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 98–1477 Filed 1–21–98; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–34,068]

International Wire, Incorporated Wire Division, Bourbon, Indiana; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on December 8, 1997 in response to a worker petition which was filed on behalf of workers at International Wire Group, Incorporated, Bourbon, Indiana.

All workers were separated from the subject firm more than one year prior to the date of the petition. Section 223 of the Act specifies that no certification may apply to any worker whose last separation occurred more than one year before the date of the petition. Consequently, further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, D.C. this 9th day of January, 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 98–1464 Filed 1–21–98; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–34,077]

Pikes Peak Greenhouses, Incorporated, Colorado Springs, Colorado; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on December 8, 1997 in response to a worker petition which was filed on behalf of workers at Pikes Peak Greenhouses, Incorporated, Colorado Springs, Colorado.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, D.C. this 8th day of January, 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 98–1474 Filed 1–21–98; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Acting Director of the Office of Trade Adjustment Assistance,

Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 2, 1998.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 2, 1998.

The petitions filed in this case are available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 22nd day of December, 1997.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

APPENDIX

[Petitions Instituted On 12/22/97]

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
34,102	Precision Textile, Inc (Wrks)	Hialeah, FL	12/11/97	Ladies & Childrens' Warm-up & Sweatsuits.
34,103	Jostens, Inc (Wrks)	Princeton, IL	09/26/97	Novelty Jewelry.
34,104	Sunbeam Corp (Wrks)	Murfreesboro, TN	12/08/97	Outdoor Patio Furniture.
34,105	Struble and Moffitt Co (Wrks)	Runnemede, NJ	12/09/07	Slippers & Food Tray Covers.
34,106	Farah Manufacturing USA (Wrks)	El Paso, TX	12/09/97	Men's, Ladies' & Boys' Apparel.
34,107	Fort James (AWPPW)	Portland, OR	11/25/97	Extruded Paper Products.
34,108	Breed Technologies, Inc (Wrks)	St. Clair Shore, MI	12/09/97	Seat Belt Assembly & Plastic Components.
34,109	Viti Fashion, Inc (Wrks)	Hialeah, FL	11/20/97	Children's Apparel.
34,110	Dal-Tile International (Wrks)	Mt. Gilead, NC	02/11/97	Ceramic Floor Tile.
34,111	Rhone-Poulenc, Inc (Comp)	Soda Springs, ID	12/04/97	Phosphate Mining.
34,112	American Athletic Apparel (Wrks)	Poxico, MO	12/10/97	Golf Shirts.
34,113	Morgan Products Ltd (UBC)	Oshkosh, WI	12/10/97	Door and Entrance Trim.
34,114	Burlington Industries (Wrks)	Smithfield, NC	12/03/97	Spinning Raw Materials into Yarn.
34,115	Hibbing Taconite Co (USWA)	Hibbing, MN	12/12/97	Iron Ore Pellets.
34,116	Tonkawa Gas Processing (Wrks)	Woodward, OK	12/10/97	Liquid Hydrocarbons.
34,117	Shape, Inc (Wrks)	Kennebunk, ME	12/11/97	Video Cassettes.
34,118	Tree Free Fiber L.L.C. (Comp)	Augusta, ME	12/16/97	Jumbo Rolls of Unfinished Tissue Paper.

[FR Doc. 98–1482 Filed 1–21–98; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–33,132]

Snap-Tite, Incorporated, Quick Disconnect Division, Union City, Pennsylvania; Notice of Affirmative Determination Regarding Application for Reconsideration

By letter of May 20, 1997, a company representative requested administrative reconsideration of the Department of Labor's Notice of Certification Regarding Eligibility to Apply for Worker Adjustment Assistance for workers of the subject firm. The certification was signed on March 25, 1997.

The company representative presents evidence that merits the Department's review of the certification.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, D.C. this 11th day of January 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 98–1467 Filed 1–21–98; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–33,328; TA–W–33,328A; TA–W–33,328B]

Stride Rite Corporation, Hamilton, Missouri, Tipton, Missouri, and Lexington, Massachusetts; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on March 27, 1997, applicable to all workers of Stride Rite Corporation located in Hamilton and Tipton, Missouri. The notice was published in the **Federal Register** on May 2, 1997 (62 FR 24135).

At the request of the company, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of children's shoes. New information received by the company shows that

worker separations have occurred at the Lexington, Massachusetts location of Stride Rite Corporation. The Lexington, Massachusetts facility is the corporate headquarters office and provides production planning services for children's shoes at Stride Rite Corporation.

The intent of the Department's certification is to include all workers of Stride Rite Corporation who were adversely affected by increased imports of children's shoes. Accordingly, the Department is amending the certification to cover the workers of Stride Rite Corporation, Lexington, Massachusetts.

The amended notice applicable to TA–W–33,328 is hereby issued as follows:

All workers of Stride Rite Corporation, Hamilton, Missouri (TA–W–33,328), Tipton, Missouri (TA–W–33,328A) and Lexington, Massachusetts (TA–W–33,328B) engaged in the production of children's shoes who became totally or partially separated from employment on or after February 24, 1996 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington D.C. this 14th day of January, 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 98–1469 Filed 1–21–98; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–33,933]

University Technical Services, Incorporated, Canton, New York; Amended Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance on November 17, 1997, applicable to all workers of University Technical Services, Incorporated, San Diego, California. The notice was published in the **Federal Register** on December 10, 1997 (62 FR 65100).

At the request of the State agency, the Department reviewed the negative determination for workers of the subject firm. New findings show that the Department incorrectly identified the subject firm location. The investigation conducted for the subject firm was conducted on behalf of workers engaged in providing operations and maintenance services for electricity generation located in Canton, New York. San Diego, California is the Administrative Services office of the subject firm and is not the subject of the investigation. The Department is amending the negative determination to correctly identify the city and state to read Canton, New York.

Conclusion

After careful review, I determine that all workers of University Technical Services, Incorporated, Canton, New York are denied eligibility to apply for adjustment assistance under Section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 23rd day of December 1997.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 98–1478 Filed 1–21–98; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility to Apply for NAFTA Transitional Adjustment Assistance

Petitions for transitional adjustment assistance under the North American Free Trade Agreement-Transitional Adjustment Assistance Implementation Act (Pub. L. 103–182), hereinafter called (NAFTA–TAA), have been filed with State Governors under Section 250(b)(1) of Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended, are identified in the Appendix to this Notice. Upon notice from a Governor that a NAFTA–TAA petition has been received, the Acting Director of the Office Trade Adjustment Assistance (OTAA), Employment and Training Administration (ETA), Department of Labor (DOL), announces the filing of the petition and takes actions pursuant to paragraphs (c) and (e) of Section 250 of the Trade Act.

The purpose of the Governor's actions and the Labor Department's investigations are to determine whether the workers separated from employment of after December 8, 1993 (date of enactment of Pub. L. 103–182) are eligible to apply for NAFTA–TAA under Subchapter D of the Trade Act because of increased imports from or the shift in production to Mexico or Canada.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing with the Acting Director of OTAA at the U.S. Department of Labor (DOL) in Washington, DC provided such request is filed in writing with the Acting Director of OTAA not later than February 2, 1998.

Also, interested persons are invited to submit written comments regarding the subject matter of the petitions to the Acting Director of OTAA at the address shown below not later than February 2, 1998.

Petitions filed with the Governors are available for inspection at the Office of the Acting Director, OTAA, ETA, DOL, Room C–4318, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC this 9th day of January, 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

APPENDIX

Subject firm	Location	Date received at governor's office	Petition No.	Articles produced
Eastman Kodak (Co.)	Windsor, CO	12/08/97	NAFTA–2,058	Graphics film.
Northern Technologies (Wkrs)	Pocahontas, AL	12/08/97	NAFTA–2,059	Electrical connectors.
Honeywell Microswitch (Co.)	El Monte, CA	12/05/97	NAFTA–2,060	Temperature and humidity sensors.
Frankfort Plastics (Wkrs)	Frankfort, KY	12/04/97	NAFTA–2,061	Plastics.
Criterion Plastics, Inc (Wkrs)	Kingsville, TX	12/09/97	NAFTA–2,062	Plastic injection molded parts.
Burlington Industries, Inc. (Wkrs)	Smithfield, NC	12/09/97	NAFTA–2,063	Yarn spooling for jeans, mattress tickin.
Morgan Products Ltd. (UBC&J)	Oshkosh, WI	12/11/97	NAFTA–2,064	Doors and entrance trim.

APPENDIX—Continued

Subject firm	Location	Date received at governor's office	Petition No.	Articles produced
Deralb Generics Corp (Wkrs)	Dedralb, IL	12/11/97	NAFTA–2,065	Corn seeds.
Precision Textile (Wkrs)	Hialeah, FL	12/11/97	NAFTA–2,066	Warmer suits, sweat suits, kids and women's.
New Ponce Shirt Co., Inc. (Wkrs)	Ponce De Leon, FL	12/11/97	NAFTA–2,067	
Aquarius Mfg. (Co)	El Paso, TX	12/11/97	NAFTA–2,068	Upholstered living room and den furniture.
Essilor Lenses (Co)	St. Petersburg, FL	12/01/97	NAFTA–2,069	Plastic lenses for eyeglasses.
Fort James (AWPPU)	Portland, OR	12/10/97	NAFTA–2,070	
Weyerhaeuser (Wkrs)	Coos Bay, OR	11/28/97	NAFTA–2,071	Lumber.
American Athletic Apparel (Wkrs)	Puxico, MO	12/15/97	NAFTA–2,072	Clothing.
Hunt Wesson (Wkrs)	Fullerton, CA	12/05/97	NAFTA–2,073	Tomato based products.
Dal-Tile International (Wkrs)	Mt. Gilead, NC	12/15/97	NAFTA–2,074	Ceramic floor tile.
Levi Strauss & Co. (Co)	Mountain City, TN	12/15/97	NAFTA–2,075	Men's, women's and youth slacks—Dockers.
Levi Strauss & Co. (Co)	Powell, TN	12/15/97	NAFTA–2,075	Men's, women's and youth slacks (Dockers).
Levi Strauss & Co. (Co)	Knoxville, TN	12/15/97	NAFTA–2,075	Men's, women's and youth slacks (Dockers).
Levi Strauss & Co. (Co)	Harlingen, TX	12/15/97	NAFTA–2,075	Men's, women's and youth slacks (Dockers).
Levi Strauss & Co. (Co)	Amarillo, TX	12/15/97	NAFTA–2,075	Men's, women's and youth slacks (Dockers).
Levi Strauss & Co. (Co)	San Antonio, TX	12/15/97	NAFTA–2,075	Men's, women's and youth Slacks (Dockers).
Dimetrics Inc. (Co)	Davidson, NC	12/15/97	NAFTA–2,076	
Corning Inc. (AFGWU)	Corning, NY	12/17/97	NAFTA–2,077	Laboratory glass.
Trelleburg (Wkrs)	South Haven, MI	12/17/97	NAFTA–2,078	Plastic boot seal.
Alcoa Fujikura LTD (Wkrs)	Owosso, MI	12/16/97	NAFTA–2,079	Brushguard.
Visy Paper (UPIU)	Menominee, MI	12/16/97	NAFTA–2,080	Recycled paper.
Breed Technologies, Inc. (Wkrs)	St. Clair Shores, MI	12/15/97	NAFTA–2,081	Seat belt assembly and plastic components.
C.R. Bard Inc. (Co)	Billerica, MA	12/18/97	NAFTA–2,082	Medical catheters.
Tree Free Fiber Limited Liability Co. (Co).	Augusta, ME	12/17/97	NAFTA–2,083	Tissue products in rolls (not finished).
EFBLCO (Co)	White City, OR	12/17/97	NAFTA–2,084	Lumber.
Delbar Products (Wkrs)	Perkasie, PA	01/05/98	NAFTA–2,085	Rear view mirrors for auto industry.
General Electric Company (IUE)	Rome, GA	12/16/97	NAFTA–2,086	Large and small transformers.
Diversified Plastics Inc. (Wkrs)	Elk Grove Village, IL	12/19/97	NAFTA–2,087	Picture frames.
Wilson Sporting Goods Company (Wkrs).	Chicago, IL	12/19/97	NAFTA–2,088	Shoes and sporting goods.
Newell (Wkrs)	Harrisburg, AR	12/29/97	NAFTA–2,089	Picture Frames.
Farah Manufacturing (Wrks)	El Paso, TX	12/15/97	NAFTA–2,090	Men's, Women's and Boys' Apparel.
Hibbing Taconite Co	Hibbing, MN	12/29/97	NAFTA–2,091	Taconite Pellets.
Country Elegance (Comp)	North Hollywood, CA	12/26/97	NAFTA–2,092	Bridal Gowns, Hats.
Brown Shoe Group (Wrks)	Fredericktown, MO	12/24/97	NAFTA–2,093	Dress Shoes, Tennis Shoes, Ankle Boots.
Crown Cork and Seal Co	Philadelphia, PA	12/23/97	NAFTA–2,094	Coating, Printing of Aerosol Cans.
National Electrical Carbon Products (Wrks).	East Stroudsburg, PA	12/23/97	NAFTA–2,095	Carbon Brushes, Carbon Slabs.
Romla Ventilator Co (Wrks)	Gardena, CA	12/23/97	NAFTA–2,096	Various Sheet Metal Products.
Healthtex, Inc (Comp)	Warrenton, GA	12/22/97	NAFTA–2,097	Children's Clothing.
Guess, Inc (Wrks)	Los Angeles, CA	08/15/97	NAFTA–2,098	Jeans, Casual Shirts, T-Shirts.
RMP—Holman Enterprises (Co.)	Pennsauken, NJ	01/02/98	NAFTA–2,099	Auto engines and small parts.
Globelle (Wkrs)	Berlin, NJ	12/22/97	NAFTA–2,100	Computer systems.
Westwood Lighting (Co.)	El Paso, TX	12/31/97	NAFTA–2,101	Lamps.
Spalding and Son (Wkrs)	Grants Pass, OR	12/30/97	NAFTA–2,102	Lumber and timber.
Unifi (Co.)	Graham, NC	12/29/97	NAFTA–2,103	Yarn.
Unifi (Co.)	Lincolnton, NC	12/29/97	NAFTA–2,104	Yarn.
Dixie (Wkrs)	York, SC	01/05/98	NAFTA–2,105	Clothing apparel.
United Steering Systems (UPIU)	Grabill, IN	12/12/97	NAFTA–2,106	Steering Wheels, backcover, airbag cover.
Rich Products (Co.)	Sadgatuck, MI	12/23/97	NAFTA–2,107	Pies productions.
Active Burgess Machine and Tool (Wkrs).	St. Claire, MI	12/23/97	NAFTA–2,108	Mold and design.
Century Products (Wkrs)	Cheboygan, MI	12/29/97	NAFTA–2,109	Stereo speaker boxes.
Pacific Lumber and Shipping (IBC)	Packwood, WA	01/06/98	NAFTA–2,110	Softwood dimension of lumber.
Zenith Electronics (Wkrs)	Glenview, IL	01/05/98	NAFTA–2,111	Televisions.

APPENDIX—Continued

Subject firm	Location	Date received at governor's office	Petition No.	Articles produced
Mascotech Industrial (UAW)	Duffield, VA	12/22/97	NAFTA–2,112 ...	Gas and electric cook tops and range.

[FR Doc. 98–1473 Filed 1–21–98; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–02040]

International Wire, Incorporated, Wire Division, Bourbon, Indiana; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (P.L. 103–182) concerning transitional adjustment assistance, hereinafter called (NAFTA–TAA), and in accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on December 1, 1997 in response to a petition filed on behalf of workers at International Wire Group, Incorporated, Bourbon, Indiana.

This case is being terminated because the workers were separated from the subject firm more than one year prior to the date of the petition. The NAFTA Implementation Act specifies that no certification may apply to any worker whose last separation occurred more than one year before the date of the petition. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, D.C., this 9th day of January, 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 98–1470 Filed 1–21–98; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA—01857]

Onan Corporation, Huntsville, Alabama; Including Leased Workers of ACT Personnel and Services, Incorporated; Snelling Temporary Services; Olsten Staffing Services; Team Source Personnel; Interim Health Care, Huntsville, Alabama; Amended Certification Regarding Eligibility to Apply for NAFTA-Transitional Adjustment Assistance

In accordance with Section 250(A), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974 (19 USC 2273), the Department of Labor issued a Certification for NAFTA Transitional Adjustment Assistance on October 23, 1997, applicable to all workers of Onan Corporation, Huntsville, Alabama. The notice was published in the **Federal Register** on November 7, 1997 (62 FR 60280).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. New information provided by the State shows that some employees of Onan Corporation were leased from ACT Personnel and Services, Incorporated, Snelling Temporary Services, Olsten Staffing Services, Team Source Personnel, and Interim Health Care to produce gasoline engines at the Huntsville, Alabama facility. Worker separations occurred at these companies as a result of the permanent closing of Onan Corporation, Huntsville, Alabama.

Based on these findings, the Department is amending the certification to include workers of ACT Personnel and Services, Incorporated, Snelling Temporary Services, Olsen Staffing Services, Team Source Personnel, and Interim Health Care, Huntsville, Alabama leased to Onan Corporation, Huntsville, Alabama.

The intent of the Department's certification is to include all workers of Onan Corporation adversely affected by imports from Canada.

The amended notice applicable to NAFTA—01857 is hereby issued as follows:

All workers of Onan Corporation, Huntsville, Alabama and leased workers of ACT Personnel and Services, Incorporated, Snelling Temporary Services, Olsten Staffing Services, Team Source Personnel, and Interim Health Care, Huntsville, Alabama engaged in employment related to the production of gasoline engines for Onan Corporation, Huntsville, Alabama who became totally or partially separated from employment on or after July 28, 1996 are eligible to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974.

Signed at Washington, D.C. this 22nd day of December, 1997.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 98–1480 Filed 1–21–98; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–01530, Stride Rite Corporation, Hamilton, Missouri; NAFTA–01530A, Tipton, Missouri; and NAFTA–01530B, Lexington, Massachusetts]

Amended Certification Regarding Eligibility To Apply for NAFTA-Transitional Adjustment Assistance

In accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974 as amended (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for NAFTA Transitional Adjustment Assistance on March 27, 1997, applicable to all workers at Stride Rite Corporation located in Hamilton and Tipton, Missouri. The notice was published in the **Federal Register** on April 15, 1997 (62 FR 18362).

At the request of the petitioners, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of children's shoes. New information received by the company shows that worker separations have occurred at the Lexington, Massachusetts location of Stride Rite Corporation. The Lexington, Massachusetts facility is the corporate headquarters office and provides production planning services for

children's shoes at Stride Rite Corporation.

The intent of the Department's certification is to include all workers of Stride Rite Corporation who were adversely affected by increased imports of children's shoes from Mexico. Accordingly, the Department is amending the certification to cover the workers of Stride Rite Corporation, Lexington, Massachusetts.

The amended notice applicable to NAFTA–01530 is hereby issued as follows:

''All workers of Stride Rite Corporation, Hamilton, Missouri (NAFTA–01530), Tipton, Missouri (NAFTA–01530A), and Lexington, Massachusetts (NAFTA–01530B) who became totally or partially separated from employment on or after February 24, 1996, are eligible to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974.''

Signed at Washington, D.C. this 11th day of January, 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 98–1465 Filed 1–21–98; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–01967]

University Technical Services, Incorporated, University Energy, Canton, New York; Amended Negative Determination Regarding Eligibility To Apply for NAFTA-Transitional Adjustment Assistance

In accordance with Section 250(A), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974 (19 U.S.C. 2273), the Department of Labor issued a Certification for NAFTA Transitional Adjustment Assistance on November 28, 1997, applicable to all workers of University Technical Services, Incorporated, San Diego, California. The notice was published in the **Federal Register** on June 13, 1997 (62 FR 32376).

At the request of the State agency, the Department reviewed the negative determination for workers of the subject firm. New findings show that the Department incorrectly identified the subject firm location. The investigation conducted for the subject firm was conducted on behalf of workers engaged in providing operations and maintenance services for electricity generation located in Canton, New York. San Diego, California is the Administrative Services office of the subject firm and is not the subject of the investigation. The Department is amending the negative determination to correctly identify the city and state to read Canton, New York.

Conclusion

After careful review, I determine that all workers at University Technical Services, Incorporated, Canton, New York are denied eligibility to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974.

Signed at Washington, D.C. this 23rd day of December, 1997.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 98–1479 Filed 1–21–98; 8:45 am]

BILLING CODE 4510–30–M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Sunshine Act Meeting

January 15, 1998.

TIME AND DATE: 10:00 a.m., Thursday, January 22, 1998.

PLACE: Room 6005, 6th Floor, 1730 K Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission shall consider and act upon the following:

1. *Secretary of Labor* v. *Unique Electric*, Docket No. WEST 95–333–M (Issues include whether the judge abused his discretion in determining that, in assessing a penalty under section 110(i) of the Mine Act, an operator's cessation of business is a factor militating in favor of a reduction in the penalty under the ''effect of the operator's ability to continue in business'' criterion).

2. *Secretary of Labor on behalf of Calahan* v. *Hubb Corporation*, Docket No. KENT 97–13–D (Issues include whether the judge erred in dismissing in its entirety a discrimination case brought under section 105(c)(2) of the Mine Act when the complaining miner, but not the Secretary, settled with the operator).

TIME AND DATE: 10:00 a.m., Thursday, January 29, 1998.

PLACE: Room 6005, 6th Floor, 1730 K Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission shall consider and act upon the following:

1. *Secretary of Labor* v. *Daanen & Janssen, Inc.*, Docket Nos. LAKE 95–180–RM, etc. (Issues include whether the judge properly found that the operator violated 30 CFR §§ 56.14101(a) and 56.9101 by failing to maintain in functional condition a component of the service braking system of a front-end loader, which traveled through and over a berm, fatally injuring the employee operating it).

TIME AND DATE: 10:00 a.m., Thursday, February 5, 1998.

PLACE: Room 6005, 6th Floor, 1730 K Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission shall consider and act upon the following:

1. *Secretary of Labor* v. *Cannelton Industries, Inc., et al.*, Docket Nos. WEVA 94–381, etc. (Issues include whether the judge correctly determined that the operator violated 30 CFR § 75.400's prohibition against accumulations of combustible materials, whether the violation was the result of the operator's unwarrantable failure to comply with the standard, and whether two shift foremen are personally liable under section 110(c) of the Mine Act for knowingly authorizing the violation).

Any person attending oral argument or an open meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR § 2706.150(a)(3) and § 2706.160(d).

CONTACT PERSON FOR MORE INFO: Jean Ellen, (202) 653–5629 / (202) 708–9300 for TDD Relay / 1–800–877–8339 for toll free.

Sandra G. Farrow,

Acting Chief Docket Clerk.

[FR Doc. 98–1627 Filed 1–20–98; 12:03 pm]

BILLING CODE 6735–01–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Meeting of the ACRS Subcommittee on Planning and Procedures; Notice of Meeting

The ACRS Subcommittee on Planning and Procedures will hold a meeting on January 30 and 31, 1998, at the Bolger Center, 9600 Newbridge Drive, Potomac, Maryland.

The entire meeting will be open to public attendance with the exception of a portion that may be closed pursuant to 5 U.S.C. 552b(c)(2) and (6) to discuss organizational and personnel matters that relate solely to the internal personnel rules and practices of ACRS, and matters the release of which would constitute a clearly unwarranted invasion of personal privacy.

The agenda for the subject meeting shall be as follows:

Friday, January 30, 1998—8:30 a.m. until the conclusion of business.

Saturday, January 31, 1998—8:30 a.m. until the conclusion of business.

The Subcommittee will discuss issues associated with the prioritization of ACRS activities for FY 1998—FY 2000, ACRS operational plan, self-assessment of ACRS performance, potential operational areas for improved effectiveness, interaction with ACNW, ACRS Fellow's activities, and other activities related to the conduct of ACRS business. The purpose of this meeting is to gather information, analyze relevant issues and facts, and to 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.

Further information regarding topics to be discussed, whether the meeting has been cancelled 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, Dr. John T. Larkins (telephone 301/415–7360) 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: January 15, 1998.

Gail H. Marcus,

Acting Chief, Nuclear Reactors Branch.

[FR Doc. 98–1495 Filed 1–21–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATE: Weeks of January 19, 26, February 2, and 9, 1998.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of January 19—Tentative

Wednesday, January 21

10:00 a.m.
Briefing on Operating Reactors and Fuel Facilities (Public Meeting)
(Contact: William Dean, 301–415–1726)

2:00 p.m.
Briefing on Material Control of Generally Licensed Devices (Public Meeting)
(Contact: Larry Camper, 301–415–7231)

4:00 p.m.
Affirmation Session (Public Meeting) (if needed)

Friday, January 23

9:30 a.m.
Discussion of Interagency Issues (Closed—Ex. 9)

Week of January 26—Tentative

Wednesday, January 28

11:30 a.m.
Affirmation Session (Public Meeting) (if needed)

Week of February 2—Tentative

Wednesday, February 4

11:30 a.m.
Affirmation Session (Public Meeting) (if needed)

Week of February 9—Tentative

There are no meetings the week of February 9.

* The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact person for more information: Bill Hill (301) 415–1661.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: http://www.nrc.gov/SECY/smj/schedule.htm.

* * * * *

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, D.C. 20555 (301–415–1661).

In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to wmh@nrc.gov or dkw@nrc.gov.

* * * * *

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 98–1496 Filed 1–16–98; 11:09 am]

BILLING CODE 7590–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–443]

North Atlantic Energy Service Corporation, Seabrook Station; Receipt of Petition for Director's Decision Under 10 CFR 2.206

Notice is hereby given that by Petition dated December 18, 1997, Ms. Jane Doughty (or Petitioner), representing The Seacoast Anti-Pollution League, has requested that the U.S. Nuclear Regulatory Commission take action with regard to Seabrook Station. Petitioner requests that the operating license for the Seabrook Station be suspended until such time as a thorough root cause analysis of the reasons underlying the development of leaks in piping in the ''B'' train of the residual heat removal (RHR) system is conducted. The leakage was reported by the Licensee on December 5, 1997.

As the basis for this request, Petitioner states that there have been past allegations of improper welding practices and substandard piping at Seabrook Station and further requests that the investigation of the RHR system pipe leakage include findings related to these past allegations.

The request is being treated pursuant to 10 CFR 2.206 of the Commission's regulations. The request has been referred to the Director of the Office of Nuclear Reactor Regulation. As provided by Section 2.206, appropriate action will be taken on this Petition within a reasonable time.

By letter dated January 15, 1998, the Director denied Petitioner's request to delay restart of the reactor at Seabrook Station, Unit 1, until all such actions requested by the Petition are taken.

A copy of the Petition is available for inspection at the Commission's Public Document Room at 2120 L Street, NW., Washington, DC 20555–0001 and at the local public document room located at Exeter Public Library, Founders Park, Exeter, NH 03833.

Dated at Rockville, Maryland, this 15th day of January 1998.

For the Nuclear Regulatory Commission.

Frank J. Miraglia,

Acting Director, Office of Nuclear Reactor Regulation.

[FR Doc. 98–1494 Filed 1–21–98; 8:45 am]

BILLING CODE 7590–01–P

POSTAL SERVICE

Sunshine Act Meeting

TIMES AND DATES: 1:00 p.m., Monday, February 2, 1998; 8:30 a.m., Tuesday, February 3, 1998.

PLACE: Ft. Lauderdale, Florida, at the Marriott Boca Raton, 5150 Town Center Circle, Boca Raton, in Parlors 1 and 2.

STATUS: February 2 (Closed): February 3 (Open).

MATTERS TO BE CONSIDERED:

Monday, February 2—1:00 p.m. (Closed)

1. Personnel Issues.
2. Compensation Issues.
3. Report on the Tray Management System.

Tuesday, February 3—8:30 a.m. (Open)

1. Minutes of the Previous Meeting, January 5–6, 1998.
2. Remarks of the Postmaster General/Chief Executive Officer.
3. Consideration of Resolutions on Committees.
4. Appointment of Members to Board Committees.
5. Fiscal Year 1997 Comprehensive Statement on Postal Operations.
6. Government Performance and Results Act Annual Plan.
7. Quarterly Report on Financial Results.
8. Capital Investments.
   a. Informational Briefing on Corporate Call Management Prototype.
   b. Delivery Barcode Sorter Stacker Modules.
   c. Linerless Label Applicator for Letter Mail Labeling Machine.
   d. Kansas City, Missouri, Processing and Distribution Center Additional Funding.
   3. Northeast Metro/Royal Oak, Michigan, Processing and Distribution Center.
9. Report on the South Florida Performance Cluster.
10. Tentative Agenda for the March 2–3, 1998, meeting in Washington, D.C.

CONTACT PERSON FOR MORE INFORMATION: Thomas J. Koerber, Secretary of the Board, U.S. Postal Service, 475 L'Enfant Plaza, S.W., Washington, D.C. 20260–1000. Telephone (202) 268–4800.

Thomas J. Koerber,

Secretary.

[FR Doc. 98–1668 Filed 1–20–98; 3:03 pm]

BILLING CODE 7710–12–M

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application to Withdraw From Listing and Registration; (CECO Filters, Inc., Common Stock, $.001 Par Value) File No. 1–10474

January 15, 1998.

CECO Filters, Inc. (''Company'') has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to Section 12(d) of the Securities Exchange Act of 1934 (''Act'') and Rule 12d2–2(d) promulgated thereunder, to withdraw the above specified security (''Security'') from listing and registration on the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'').

The reasons cited in the application for withdrawing the Security from listing and registration include the following:

The Company has complied with the Exchange's rules regarding the voluntary delisting of securities. The Company has filed with the Exchange a copy of the resolutions adopted by the Company's Board of Directors authorizing the withdrawal of the Security from listing and registration on the Phlx, and by setting forth in detail to the Exchange the facts and reasons supporting the proposed withdrawal.

The Company is more than 80% owned by CECO Environmental Corp. (''Environmental''). Environmental's common stock is currently listed on the Nasdaq SmallCap Market. The Company constitutes Environmental's primary asset and is its only operating subsidiary. The common stock of Environmental has greater liquidity and a much larger public float than the Security. Because of the liquidity differences and varying levels of participation by market professionals, the prices of the Security and the common stock of Environmental have diverged and are no longer aligned. The Company also believes that maintaining both listings is expensive. Accordingly, the Company believes that the Security and common stock of Environmental should not both be listed.

Furthermore, the Company has approximately 224 shareholders. The Company has concluded that the public float is too small for the Security to have an active trading market.

In making the decision to withdraw its Security from listing and registration on the Phlx, the Company considered the costs and expenses associated with listing both the Security and the common stock of Environmental.

By letter dated December 8, 1997, the Phlx informed the Company that it had no objection to the withdrawal of the Company's Security from listing on the Phlx.

Any interested person may, on or before February 5, 1998, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 98–1489 Filed 1–21–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application to Withdraw From Listing and Registration; (Hawaiian Electric Industries, Inc., Common Stock, Without Par Value) File No. 1–8503

January 15, 1998.

Hawaiian Electric Industries, Inc. (''Company'') has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to Section 12(d) of the Securities Exchange Act of 1934 (''Act'') and Rule 12d2–2(d) promulgated thereunder, to withdraw the above specified security (''Security'') from listing and registration on the Pacific Exchange, Inc. (''PCX'' or ''Exchange'').

The reasons cited in the application for withdrawing the Security from listing and registration include the following:

The Security of the Company currently is listed for trading on both the PCX and the New York Stock Exchange, Inc. (''NYSE''). The Company has complied with the rules of the PCX for delisting its Security by filing with the Exchange a request for delisting, together with a certified copy of the board resolution authorizing the delisting from the PCX, and by setting forth in detail to the Exchange the reasons and facts supporting the proposed withdrawal.

In making the decision to withdraw its Security from listing on the PCX, the Company considered the expense of maintaining the dual-listing of its Security on the PCX and the NYSE. The Company does not see any particular advantage in the dual-listing of its Security, since trading in the Security on the PCX has come to represent a very small portion of the Company's total trading volume.

By letter dated December 5, 1997, the PCX informed the Company that it had no objection to the withdrawal of the Company's Security from listing on the PCX.

By reason of Section 12(b) of the Act and the rules thereunder, the Company shall continue to be obligated to file reports under Section 13 of the Act with the Commission and the NYSE.

Any interested person may, on or before February 5, 1998, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 98–1490 Filed 1–20–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IA–1694/803–128]

Nikko Research Center (America), Inc.; Notice of Application

January 15, 1998.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of Application for Exemption under the Investment Advisers Act of 1940 (''Advisers Act'').

APPLICANT: Nikko Research Center (America), Inc.

RELEVANT ADVISERS ACT SECTIONS: Exemption requested under section 203A(c) from section 203A(a).

SUMMARY OF APPLICATION: Applicant requests an order to permit it to register with the SEC as an investment adviser.

FILING DATES: The application was filed on December 3, 1997.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on February 9, 1998, and should be accompanied by proof of service on applicant, 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 may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, N.W., Washington, D.C. 20549. Applicant, Nikko Research Center (America), Inc., One World Financial Center, Tower A, 200 Liberty Street, New York, New York 10281.

FOR FURTHER INFORMATION CONTACT: Kathy D. Ireland, Attorney, at (202) 942–0530, or Jennifer S. Choi, Special Counsel, at (202) 942–0716 (Division of Investment Management, Task Force on Investment Adviser Regulation).

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.

Applicant's Representations

1. Applicant is a corporation organized under the laws of New York and a wholly-owned subsidiary of the Nikko Research Center, Ltd. (''NRC''), an unregistered investment adviser located in Japan, which is affiliated with the Nikko Securities Co., Ltd. (''NST''), an integrated financial services company also located in Japan.

2. Applicant maintains its principal place of business in New York and is currently registered as an investment adviser in New York. Applicant was registered with the SEC as an investment adviser until July 8, 1997.

3. Pursuant to separate service agreements between applicant and NRC, NST, and Nikko Securities Co. International, Inc. (''NSI''), a registered broker-dealer located in the United States and an indirect wholly-owned subsidiary of NST, applicant provides NRC, NST, and NSI with reports concerning national and international political, economic, financial, and investment matters to assist them with the services that they provide to their clients. Some of these reports may be distributed directly by NSI and NST to their institutional clients, and NST may distribute such reports to certain retail clients, all of whom are in Japan. NSI does not have retail clients.

4. Applicant's analysts, strategists, and economists speak at seminars for clients of NSI, all of which are U.S. affiliates of Japanese-based banking institutions. NSI mails seminar materials directly to other institutional clients.

5. Applicant's analysts and economists also periodically meet directly with certain institutional clients of NSI and NST, including U.S. subsidiaries of Japanese regional banks, insurance companies, and Japanese banks and trust companies.[1] The foregoing are the only direct contacts applicant has with clients of NSI and NST. Applicant does not and will not have any direct contacts with any clients of NRC.

6. Applicant receives compensation solely from NRC, NSI and NST in an amount equivalent to its total annual operational cost plus 3%.

Applicant's Legal Analysis

1. On October 11, 1996, the National Securities Markets Improvement Act of 1996 was enacted. Title III of the Act, the Investment Advisers Supervision Coordination Act, added new section 203A to the Advisers Act. Under section 203A(a)(1),[2] an investment adviser that is regulated or required to be regulated as an investment adviser in the state in which it maintains its principal office and place of business is prohibited from registering with the SEC unless the investment adviser (i) has assets under management of not less than $25 million or (ii) is an adviser to an investment company registered under the Investment Company Act of 1940 (''Investment Company Act''). Section 203A(a)(2) defines the phrase ''assets under management'' as the ''securities portfolios with respect to which an investment adviser provides continuous and regular supervisory or management services.''[3]

2. Applicant submits that section 203A of the Advisers Act is intended to streamline the registration and oversight of investment advisers by reallocating responsibilities between the SEC and the states. Applicant notes that Congress determined that the states should be responsible for regulating investment advisers ''whose activities are likely to

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[1] Although NST has retail as well as institutional clients, applicant only has direct contact with certain of NST's institutional clients.

[2] 15 U.S.C. 80b–3a(a)(1).

[3] 15 U.S.C. 80b–3a(a)(2).

be concentrated in their home state,'' but ''[l]arger advisers, with national businesses,'' should be regulated by the SEC and be ''subject to national rules.''[4]

3. Section 203A(c) of the Advisers Act authorizes the SEC to permit an investment adviser to register with the SEC if prohibiting registration would be ''unfair, a burden on interstate commerce, or otherwise inconsistent with the purpose of [section 203A].''[5]

4. Applicant states that it does not qualify for SEC registration under section 203A. Applicant submits that it does not have assets under management or act as an investment adviser to an investment company registered as such under the Investment Company Act. Applicant also states that it does not satisfy any of the exemptions from the prohibition on registration provided in rule 203A–2 under the Advisers Act.

5. Applicant asserts that it would be inconsistent with the purposes of section 203A if it were prohibited from registering with the SEC. Applicant submits that its activities, like those of the nationally recognized statistical rating organizations (''NRSROs'') and pension consultants, affect the national and international securities markets.

6. Applicant states that its research reports focus primarily on issues of national and international scope and significance. Applicant states that its advisory services are provided to only three clients for compensation, and that those entities utilize applicant's services in connection with the delivery of services to their own clients, many of which are substantial institutional investors, such as banks, insurance companies, and trust companies located throughout the world, that collectively manage and/or invest billions of dollars in both foreign and domestic securities. Applicant asserts that, the significant resources of these institutional investors, which may utilize its research and analyses in connection with their own investment management activities, substantially affect both national and international securities markets.[6]

7. Applicant states that the SEC exempted NRSROs from the prohibition on SEC registration although they typically do not have assets under management or act as investment advisers to registered investment companies because their activities have a significant effect on the national securities markets and the operation of federal securities laws.[7]

8. Applicant also states that the SEC exempted certain pension consultants from the prohibition on SEC registration even though they may not have assets under management or act as investment advisers to registered investment companies because they have a direct effect on the management of billions of dollars of plan assets, which in turn affects the national markets.[8]

9. Applicant also submits that it would be inconsistent with the purposes of section 203A(b)(1)(A) if it were subject to state regulation. Applicant states that, pursuant to this section, Congress preserved the states' ability to regulate certain investment adviser representatives of investment advisers registered with the SEC if those representatives provide services to retail clients. Applicant submits that Congress determined that the primary interest of the states is to maintain oversight of representatives with retail, and not institutional, clientele because the activities of these representatives predominately affect local markets. Applicant states that in defining the term ''investment adviser representative'' for purposes of section 203A(b), the SEC noted its belief that it is consistent with the intent of Congress to distinguish between retail and other clients.[9]

10. Applicant states that it does not provide investment advisory services directly to retail clients. Applicant submits that its three clients are institutions whose activities are national and international in scope. Further, applicant states that the advisory services that it provides to its clients are primarily used by such clients in connection with the services that they provide to their own clients, which are almost exclusively institutional.[10] Applicant states that, because its services are provided primarily to institutions, it is not the sort of investment adviser that Congress intended to be subject to regulation by and registration with the states.

11. Applicant believes that Congress intended that national investment advisers remain subject to SEC oversight, in part to focus SEC supervision and examination resources on investment advisers involved in interstate commerce. Applicant contends that the national and international nature of its activities lends itself to supervision and examination by one regulatory body.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–1491 Filed 1–21–98; 8:45 am]

BILLING CODE 8010–01–M

[4] S. Rep. No. 293, 104th Cong., 2d Sess. 4 (1996).

[5] 15 U.S.C. 80b–3a(c).

[6] Applicant also notes that its services reach certain institutional investors even more directly. As described above, applicant gives seminar presentations for certain of NSI's clients, and holds individual meetings directly with certain clients of NSI and NST, all which are institutional investors with a national or international presence.

[7] Rules Implementing Amendments to the Investment Advisers Act of 1940, Investment Advisers Act Release No. 1633 at Section II.D.1. (May 15, 1997) [62 FR 28112 (May 22, 1997)].

[8] *Id.* at Section II.D.2.

[9] *Id.* at Section II.F.1.

[10] Of applicant's three clients, only NST has retail clients, all of whom are outside the United States. Applicant has no direct contacts with any of NST's retail clients.

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 23000; 812–10876]

Saratoga Advantage Trust, et al.; Notice of Application

January 14, 1998.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from section 15(a) of the Act and rule 18f–2 under the Act, and from certain disclosure requirements under the Act.

SUMMARY OF APPLICATION: The order would permit the investment adviser to an open-end registered investment company to enter into subadvisory contracts with subadvisers without receiving shareholder approval, and grant relief from certain disclosure requirements regarding advisory fees paid to subadvisers.

APPLICANTS: Saratoga Capital Management (the ''Manager''), and the Saratoga Advantage Trust (the ''Trust'').[1]

FILING DATES: The application was filed on November 24, 1997, and amended on December 31, 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

[1] Applicants request that the relief apply to any open-end registered investment company for which the Manager or any entity controlling, controlled by, or under common control with the Manager acts as investment adviser. All existing investment companies that currently intend to rely on the order have been named as applicants, and any other existing or future investment companies that subsequently rely on the order will comply with the terms and conditions in the application.

copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on February 9, 1998 and should be accompanied by proof of service on the 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 may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, N.W., Washington, DC 20549. Applicants: 1501 Franklin Avenue, Mineola, NY 11501.

FOR FURTHER INFORMATION CONTACT: Lisa McCrea, Attorney Adviser, at (202) 942–0562, or Nayda B. Roytblat, Assistant Director, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch, 450 5th Street, N.W., Washington, DC 20549 (tel. 202–942–8090).

Applicants' Representations

1. The Trust is an open-end management investment company registered under the Act. The Trust currently is comprised of seven separate investment portfolios (the ''Portfolios''), each of which has its own investment objectives and policies.

2. The Manager is registered as an investment adviser under the Investment Advisers Act of 1940 (the ''Advisers Act''). The Trust has entered into an investment management agreement (''Management Agreement'') with the Manager under which the Manager serves as investment adviser to the Trust and its Portfolios. The Manager retains investment advisers registered under the Advisers Act to serve as investment advisers to the Portfolios (''Advisers''). Currently each Portfolio has a single Adviser although the Manager is authorized to select multiple Advisers for each Portfolio.

3. All Advisers currently must be approved by the Trust's board of trustees (''The Board'') and by shareholders. In evaluating prospective Advisers, the Manager considers, among other factors, each Adviser's: level of expertise; relative performance and consistency of performance to investment discipline or philosophy; investment personnel and financial strength; and quality of service and client communication. The Manager recommends to the Board whether investment advisory agreements with Advisers (''Advisory Agreements'') would be renewed, modified or terminated. In undertaking this evaluation, the Board recognizes that a portion of the fees charged by the Manager pursuant to the Management Agreement will be paid by the Manager to the Advisers, and the Board will be provided with, and will evaluate, information concerning the fees paid by the Manager to the Advisers pursuant to the Advisory Agreements.

4. Subject to the supervision and direction of the Manager and, ultimately, the Board, each Adviser's responsibilities are to manage the securities investments held by the Portfolio it serves in accordance with the Portfolio's stated investment objective and policies, and exercise discretionary authority to make investment decisions for the Portfolio and place orders to purchase and sell securities on behalf of the Portfolio.

5. The Trust's investment advisory arrangements differ from those of traditional investment companies. In the case of the Trust, the Manager does not make the day-to-day investment decisions for the Portfolios. Instead, the Manager establishes an investment program for each Portfolio and selects, supervises and evaluates the Advisers who make the day-to-day investment decisions for the respective Portfolios. In addition to selecting and monitoring Advisers, the Manager supervises the Portfolio's overall investment programs, including advising and consulting with the Trustees and the Advisers. The Manager monitors the performance of the Trust's outside service providers, including the Trust's administrator, transfer agent and custodian. The Manager also pays salaries, fees and expenses of the Trust's officers, trustees or employees that are directors, officers or employees of the Manager.

6. In return for providing the services described above, the Manager currently receives a fee from each Portfolio, computed as a percentage of net assets. The Manager pays each Adviser out of this fee.

7. Applicants request an order permitting the Manager to enter into and materially amend Advisory Agreements without obtaining shareholder approval. Applicants also request an exemption from the disclosure provisions described below regarding disclosure of fees paid to each Adviser. Each Portfolio will disclose the following (both as a dollar amount and as a percentage of a Portfolio's net assets): (a) Aggregate fees paid to the Manager and Affiliated Advisers (as defined below); and (b) aggregate fees paid to Advisers other than Affiliated Advisers (as defined below) (''Aggregate Fee Disclosure''). For purposes of this application, an Affiliated Adviser is an Adviser that is an ''affiliated person'', as defined in section 2(a)(3) of the Act, of the Portfolio or Manager, other than by reason of serving as an Adviser of a Portfolio.

Applicants' Legal Analysis

1. Section 15(a) of the Act makes it unlawful for any person to act as an investment adviser to a registered investment company except pursuant to a written contract which has been approved by the vote of a majority of the investment company's outstanding voting securities. Rule 18f–2 provides that each series or class of stock in a series company affected by a matter must approve such matter if the Act requires shareholder approval.

2. Certain items of Form N–1A, the registration statement used by open-end investment companies, when taken together, may require each Portfolio to disclose compensation paid to the investment company's investment adviser and the method of computing the fee.

3. Form N–14, the registration form for business combinations involving investment companies, requires the inclusion of a ''table showing the current fees for the registrant and the company being acquired and pro forma fees, if different, for the registrant after giving effect to the transaction using the format prescribed'' by Form N–1A.

4. Rule 20a–1 under the Act requires proxies solicited with respect to an investment company to comply with Schedule 14A under the Securities Exchange Act of 1934 (the ''1934 Act''). Certain items of Schedule 14A require the following: (a) A proxy statement for a shareholder meeting at which a new fee will be established or an existing fee increased to include a table of the current and pro forma fees using the format prescribed in item 2 of Form N–1A; and (b) a proxy statement for a shareholder meeting at which an advisory contract is to be voted upon shall include the ''rate of compensation of the investment adviser,'' the ''aggregate amount of the investment adviser's fees,'' the ''terms of the contract to be acted upon,'' and, if a change in fees is proposed, the existing and proposed rate schedule for advisory fees paid to the advisers.

5. Form N–SAR is the semi-annual report filed with the SEC by registered investment companies. Form N–SAR requires investment companies to disclose the rate schedule for fees paid to investment advisers.

6. Regulation S–X specifies the requirements for financial statements required to be included as part of the registration statements and shareholder reports filed with the SEC under the Act and the Securities Act of 1933. Section 6–07.2 of Regulation S–X may require that the Trust's financial statements contain information concerning fees paid to the Advisers.

7. Applicants believe that investors choose to invest in the Portfolios because of the Manager's experience and expertise in evaluating, selecting and supervising Advisers. Applicants believe that investors expect the Manager and the Board to select the Advisers for each Portfolio based on an Adviser's experience and expertise. Applicants contend that it is consistent with the protection of investors to vest the selection and supervision of the Advisers in the Manager because shareholders expect that the Manager will use its expertise to select the most able advisers.

8. Applicants believe that permitting the Manager to perform those duties for which shareholders compensate the Manager—the selection, supervision and evaluation of Advisers—without incurring unnecessary delay or expense is appropriately in the interests of the Portfolios' shareholders and will allow each Portfolio to operate more efficiently. Applicants contend that, without the delay inherent in holding shareholder meetings, the Portfolios will be able to act more quickly and with less expense to replace Advisers when the Manager and the Trustees believe that a change would benefit a Portfolio. Applicants assert that, without exemptive relief, the Trust would be required to call meetings of shareholders whenever the Manager determined to employ new or additional Advisers, or to approve a new Advisory Agreement after an assignment or due to a material change in terms.

9. Applicants argue that the relief requested from disclosure requirements would provide the Manager with more flexibility in negotiating fees with new Advisers. Applicants state that some Advisers use a ''posted'' rate schedule to set their fees, and that some Advisers would be unwilling to negotiate fees lower than the ''posted'' rate schedule, unless the rates negotiated for the Portfolios are not publicly disclosed. Disclosure of Adviser's fees would therefore lessen the Manager's bargaining power, and would not benefit shareholders. Applicants state that investors will know the rate of investment advisory fees each Portfolio will bear. Applicants assert that investors would still be able to determine whether the cost of investment advisory services, including the selection and supervision of Advisers, is competitive with services and costs which the investor could obtain elsewhere.

10. 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 the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the Act. Applicants believe that the requested relief satisfies this standard.

Applicants' Conditions

Applicants agree that the order granting the requested relief shall be subject to the following conditions:

1. Within 90 days of the hiring of any Adviser, the affected Portfolio will furnish its shareholders with all information about a new Adviser or Advisory Agreement that would be included in a proxy statement. The information will include any change in the disclosure caused by the addition of a new Adviser of a Portfolio. The Portfolio will meet this condition by providing shareholders, within 90 days of the hiring of an Adviser, with an information statement that meets the requirements of Regulation 14C and Schedule 14C under the 1934 Act, and Item 22 of Schedule 14A under the 1934 Act.

2. Before a Portfolio may rely on the order requested, the operation of the Portfolio as described in the application will be approved by a majority of each Portfolio's outstanding voting securities, as defined in the Act, or, in the case of a new Portfolio whose public shareholders purchase shares on the basis of a prospectus containing the disclosure addressed in condition 3 below, by the sole shareholder before offering of shares of the Portfolio to the public.

3. The Trust will disclose in its prospectus the existence, substance, and effect of the order. In addition, the Portfolios will hold themselves out to the public as employing the management structure described in the application. The prospectus will prominently disclose that the Manager has ultimate responsibility to oversee Advisers and to recommend their hiring, termination, and replacement.

4. The Manager will provide general management and administrative services to the Trust and its Portfolios, including overall supervisory responsibility for the general management and investment of each Portfolio's securities portfolio, and, subject to review and approval by the Board, will: (i) Set the Portfolios' overall investment strategies; (ii) recommend and select Advisers; (iii) allocate and reallocate the Portfolios' assets among multiple Advisers, if more than one exists; (iv) monitor and evaluate the performance of Advisers, and (v) implement procedures to ensure that the Advisers comply with the Portfolio's investment objectives, policies, and restrictions.

5. At all times, a majority of the Board will not be ''interested persons'' of the Trust within the meaning of the Act (''Independent Trustees''), and the nomination of new or additional Independent Trustees will be placed within the discretion of the then existing Independent Trustees.

6. When an Adviser change is proposed for a Portfolio with an Affiliated Adviser, the Trust's Trustees, including a majority of Independent Trustees, will make a separate finding, reflected in that Trust's Board minutes, that such change is in the best interests of the Portfolio and its shareholders and does not involve a conflict of interest from which the Manager or the Affiliated Adviser derives an inappropriate advantage.

7. The Manager will not enter into an Advisory Agreement with any Affiliated Adviser without that Advisory Agreement, including the compensation to be paid thereunder, being approved by the shareholders of the applicable Portfolio.

8. Each Portfolio will disclose in the Trust's registration statement the Aggregate Fee Disclosure.

9. The Manager will provide the Board, no less frequently than quarterly, information about the Manager's profitability for each Portfolio. The information will reflect the impact on profitability of the hiring or termination of any Advisers during the quarter.

10. Whenever an Adviser is hired or terminated, the Manager will provide the Board with information showing the expected impact on the Managers' profitability.

11. At all times, independent counsel knowledgeable about the Act and the duties of Independent Trustees will be engaged to represent the Independent Trustees of the Trust. The selection of such counsel will be placed within the discretion of the Independent Trustees.

12. No Trustee or officer of the Trust or partner or officer of the Manager will own directly or indirectly (other than through a pooled investment vehicle over which such person does not have control) any interest in an Adviser except for: (i) Ownership of interests in

the Manager or any entity that controls, is controlled by, or is under common control with the Manager; or (ii) ownership of less than 1% of the outstanding securities of any class of equity or debt of a publicly traded company that is either an Adviser or any entity that controls, is controlled by, or is under common control with an Adviser.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–1493 Filed 1–21–98; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39546; File No. SR–MSRB–97–17]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Municipal Securities Rulemaking Board Relating to Underwriting and Transaction Assessments

January 13, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 23, 1997, the Municipal Securities Rulemaking Board (''Board'' or ''MSRB'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') a proposed rule change (File No. SR–MSRB–97–17). The proposed rule change is described in Items, I, II, and III below, which Items have been prepared by the Board. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The MSRB is filing herewith a proposed rule change to rule A–13 on Underwriting and Transaction Assessments. The proposed rule change to rule A–13 would clarify that the fee currently assessed for inter-dealer transactions reported to the Board will not automatically apply to customer transactions once they are reported under Board rule G–14. The text of the proposed rule change is below. Additions are in italics. Rule A–13 + Underwriting and Transaction Assessments for Brokers, Dealers and Municipal Securities Dealers.

(a)–(b) No change.

(c) Transaction Assessments. Each broker, dealer and municipal securities dealer shall pay to the Board a fee equal to .0005% ($.005 per $1,000) of the total par value of *inter-dealer* municipal securities sales that it reports to the Board under rule G–14(b). For those transactions reported to the Board by a broker, dealer or municipal securities dealer on behalf of another broker, dealer or municipal securities dealer, the transaction fee shall be paid by the broker, dealer or municipal securities dealer that reported the transaction to the Board. Such broker, dealer or municipal securities dealer may then collect the transaction fee from the broker, dealer or municipal securities dealer on whose behalf the transaction was reported.

(d)–(f) No change.

II. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

In its filing with the Commission, the Board 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 texts of these statements may be examined at the places specified in Item IV below. The Board has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Board currently assesses dealers a fee equal to .0005% of par value of the dealers' inter-dealer sales transactions in municipal securities, as reported to the Board under rule G–14(b). As indicated in Board rule filings and notices concerning the fee, this fee was intended to apply exclusively to inter-dealer transactions.[1] Since the language of rule A–13 was written when inter-dealer transactions were the only transactions that were being reported to the Board, rule A–13(c) now simply states that the transaction assessment will apply to ''municipal securities sales that [the dealer] reports to the Board under rule G–14.'' In its rule filings and notices on rule A–13(c), the Board stated its intent to add customer transactions to those reported under rule G–14(b). The Board also noted that, once customer transactions are reported to the Board under rule G–14, the Board would review the use of customer transaction activity as a means of assessing fees. The Board, however, did not intend that the fee set for inter-dealer transactions would apply automatically to customer transactions that are reported under rule G–14.

The Board is in the process of implementing the customer transaction phase of the Transaction Reporting Program. This will result in dealer-customer transactions, as well as inter-dealer transactions, being reported to the Board under rule G–14(b), beginning in March 1998. To clarify that the current language of rule A–13(c) applies only to inter-dealer transactions, the proposed rule change simply adds the word ''inter-dealer'' to modify ''municipal securities sales.'' The Board continues to intend to review customer transaction activity, once it becomes available in the Transaction Reporting Program, as a means to more equitably assess fees.

2. Basis

The Board believes the proposed rule change is consistent with Section 15B(b)(2)(J) of the Act, which provides that the Board's rules shall:

> provide that each municipal securities broker and municipal securities dealer shall pay to the Board such reasonable fees and charges as may be necessary or appropriate to defray the costs and expenses of operating and administering the Board. Such rules shall specify the amount of such fees and charges.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Board does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act since it would apply equally to all brokers, dealers and municipal securities dealers and is simply a technical change in rule language not affecting the effect or application of the rule.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change is merely a technical correction of rule language, the Board has designated this proposed rule change as constituting a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing Board rule under Section

[1] *See, e.g.,* SR–MSRB–95–13 and Commission Order of Approval, Securities Exchange Act Release No. 37197 (May 10, 1996).

19(b)(3)(A) of the Act, which renders the proposed rule change effective upon receipt of this filing by the Commission. At any time within sixty days of the filing of the proposed 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, 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 in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the Board's principal offices. All submissions should refer to File No. SR–MSRB–97–17 and should be submitted by February 12, 1998.

For the Commission by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–1423 Filed 1–21–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39545; File No. SR–MSRB–97–10]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Municipal Securities Rulemaking Board Relating to Forms G–36(OS) and G–36(ARD) and Recordkeeping, Operative on January 1, 1998

January 13, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''), 15 U.S.C. 78s(b)(1), notice is hereby given that on November 26, 1997, the Municipal Securities Rulemaking Board (''Board'' or ''MSRB'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') a proposed rule change (File No. SR–MSRB–97–10). The proposed rule change is described in Items I, II, and III below, which Items have been prepared by the Board. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Board has filed with the Commission a proposed rule change consisting of revised Forms G–36(OS) and G–36(ARD) under rule G–36 and amendments to section (a)(xv) of rule G–8, on recordkeeping. The proposed rule change becomes operative on January 1, 1998.

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 Board 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 texts of these statements may be examined at the places specified in Item IV below. The Board 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

Rule G–36 requires that a broker, dealer or municipal securities dealer acting as underwriter in a primary offering of municipal securities (with certain limited exceptions) send to the Board copies of the official statement and completed Form G–36(OS). If the securities advance refund an outstanding issue of municipal securities, rule G–36 requires that the underwriter also send to the Board copies of the advance refunding document and completed Form G–36(ARD). Forms G–36(OS) and G–36(ARD) are being revised to provide greater clarity to brokers, dealers and municipal securities dealers in the process of completing the forms as well as to provide additional information that would assist the enforcement agencies in their enforcement activities relating to rules G–36 and G–32.

The revisions to Form G–36(OS) add the following new data elements: the date materials are received from the issuer, the date materials are sent to the Board, whether materials submitted consist of more than one document, the actual or expected date of delivery of securities to underwriters, whether the securities advance refund another issue, the SEC registration number, information regarding CUSIP–6 number assignments and the fax number of the preparer. The revisions to Form G–36(ARD) add the following new data elements: the date materials are received from the issuer, the date materials are sent to the Board, whether materials submitted consist of more than one document, the date of delivery of securities to underwriters, the SEC registration number and the fax number of the preparer. In addition, the layout of both forms is reorganized.

Rule G–8(a)(xv) currently requires brokers, dealers and municipal securities dealers acting as underwriters in most primary offerings of municipal securities to maintain certain records relating to such primary offerings and the receipt and sending of materials as required under rule G–36. Rule G–8(a)(xv) is being amended to require such brokers, dealers and municipal securities dealers to record and maintain additional information regarding the date of delivery of the issue to the underwriters, as well as to retain a copy of the receipt of sending the required forms and documents to the Board and a copy of the forms and documents sent. The additional records required under the amended rule will assist the enforcement agencies in their enforcement activities relating to rule G–36.

2. Basis

The Board believes the proposed rule change is consistent with Section 15B(b)(2)(C) of the Act, which provides that the Board's rules shall:

> be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest.

As discussed above, the Board believes that the proposed rule change will provide greater clarity to brokers, dealers and municipal securities dealers

in completing Forms G–36(OS) and G–36(ARD) and will provide additional information to the enforcement agencies that would assist them in their enforcement activities relating to rules G–36 and G–32.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Board does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act since it would apply equally to all brokers, dealers and municipal securities dealers.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

In May 1997, the Board published a notice (''Notice'') that, among other things, urged brokers, dealers and municipal securities dealers to review their compliance procedures in connection with rules G–36 and G–32.[1] To assist the agencies charged with enforcing rules G–36 and G–32, the Board proposed in the Notice certain revisions to Forms G–36(OS) and G–36(ARD). These revisions would require underwriters to include information regarding the dates underwriters receive official statements and advance refunding documents from issuers, the date of delivery of the issue to the underwriters, whether a new issue is an advance refunding and the date the documents are sent to the Board. In addition, the Board proposed an amendment to rule G–8(a)(xv) to require underwriters to record the date of delivery of the issue to the underwriters and to retain a copy of the receipt of sending the required forms and documents to the Board, as well as a copy of the forms and documents sent.

In response to its request for comments, the Board received comment letters addressing the proposed revisions to Forms G–36(OS) and G–36(ARD) and the proposed amendments to rule G–8(a)(xv) from eight commentators.

Several commentators state that they supported[2] or did not oppose[3] the proposed changes to Forms G–36(OS) and G–36(ARD) and the related change to rule G–8. One commentator[4] supported the collection and retention of the additional information as a deterrent to issuers for the untimely provision of official statements to underwriters and as a source of information about the frequency and severity of any problem in the municipal market with the delivery of official statements and advance refunding documents. Another commentator[5] stated that the proposal would evidence any late delivery by the issuer of official statements to underwriters.

NASD Regulation, Inc. suggested additional changes to the forms. It suggested that the forms include a clarifying statement which indicates whether the ''date of delivery'' is synonymous with ''settlement or closing date''; that a glossary or definition of terms be included as part of the forms, or alternatively, that the forms contain a reference to the appropriate rule or interpretation which provides appropriate definitions; that, in addition to the managing underwriter, the forms identify each syndicate member and percent participation, when applicable, to be used in compliance activities under rule G–37; and that when firms are identified by name on the forms they also be identified by their broker-dealer number or SEC–8 number. The Board has incorporated most of these suggestions in the revised forms. Information regarding syndicate members and participants was not included since this information would in several respects not be compatible with the type of information mandated by rule G–37 and would require that the forms be enlarged to three pages to add data elements that are entirely unrelated to rule G–36.

Although another commentator[6] did not specifically oppose the changes in the forms, it expressed some concern regarding the revisions by stating that the ''undisguised purpose'' of the proposed revisions to Forms G–36(OS) and G–36(ARD) was to require brokers, dealers and municipal securities dealers to advise the Board whenever a filing is late under rule G–36. The Board acknowledges that one of the stated purposes of the revisions to Forms G–36(OS) and G–36(ARD) is to assist the enforcement agencies in their enforcement activities.

One commentator[7] opposed the proposed amendments to rule G–8(a)(xv), stating that it would increase the burden on brokers, dealers and municipal securities dealers without solving the underlying problem. The Board believes that the proposed amendments to rule G–8(a)(xv) will at most constitute a negligible compliance burden while providing significant assistance to the enforcement agencies in their enforcement activities relating to rule G–36.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change: (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; (iii) was provided to the Commission for its review at least five business days prior to the filing date; and (iv) does not become operative for at least thirty (30) days from the date of its filing, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(e)(6) thereunder and become operative on January 1, 1998. At any time within sixty days of the filing of the proposed 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, 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 in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the Board's principal offices. All submissions should refer to File No. SR–MSRB–97–10 and should be submitted by February 12, 1998.

[1] ''Board Review of Underwriting Process,'' *MSRB Reports*, Vol. 17, No. 2 (June 1997) at 3–16.

[2] Goldman, Sachs & Co., Government Finance Officers Association (''GFOA''), Newman & Associates, Inc. and Rauscher Pierce Refsnes, Inc. (''Rauscher Pierce'').

[3] Lehman Brothers Inc.

[4] GFOA.

[5] Rauscher Pierce.

[6] Smith Barney Inc.

[7] Wachovia Bank, N.A.

For the Commission by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–1424 Filed 1–21–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39551; File No. SR–NASD–97–94]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the National Association of Securities Dealers, Inc. Extending the Pilot Program of the NASD's Short Sale Rule and the Amendment to the Definition of ''Legal'' Short Sale

January 14, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4[2] thereunder, notice is hereby given that on December 23, 1997, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and to grant accelerated approval of the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD is proposing to extend until April 15, 1998, the pilot program of the NASD's short sale rule (''Rule'') and the recently-approved amendment to the definition of ''legal'' short sale.[3] Below is the text of the proposed rule change. Proposed new language is in italics; proposed deletions are in brackets.

* * * * *

NASD Rule 3350

(1) This section shall be in effect until *April 15, 1998* [January 15, 1998].

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item V below. Nasdaq 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. Background and Description of the NASD's Short Sale Rule

On June 29, 1994, the SEC approved the rule applicable to short sales[4] in Nasdaq National Market (''NNM'') securities on an eighteen-month pilot basis through March 5, 1996.[5] The termination date for the pilot program for the Rule was subsequently extended until January 15, 1998.[6]

The Rule prohibits member firms from effecting short sales at or below the current inside bid as disseminated by Nasdaq whenever that bid is lower than the previous inside bid.[7] The Rule is in effect during normal domestic market hours (9:30 a.m. to 4:00 p.m., Eastern Time). To ensure that market maker activities that provide liquidity and continuity to the market are not adversely constrained when the Rule is invoked, the Rule provides an exemption to ''qualified'' Nasdaq market makers (*i.e.*, those market makers that meet the Primary Market Maker (''PMM'') standards). Even if a market maker is able to avail itself of the qualified market maker exemption, it can only utilize the exemption from the Rule for transactions that are made in connection with bona fide market making activity. If a market maker does not satisfy the requirements to be a qualified market maker, it can remain a market maker in the Nasdaq system, although it can not take advantage of the exemption from the Rule.

Since the Rule has been in effect, there have been three methods used to determine whether a market maker is eligible for the market maker exemption. Specifically, from September 4, 1994 through February 1, 1996, Nasdaq market makers who maintained a quotation in a particular NNM security for 20 consecutive business days without interruption were exempt from the Rule for short sales in that security, provided that short sales were made in connection with bona fide market making activity (the ''20-day'' test). From February 1, 1996 until February 14, 1997, the ''20-day'' test was replaced with a four-part quantitative test known as the Nasdaq PMM Standards.[8] On February 14, 1997, the PMM standards were waived for all NNM securities due to the effects of the SEC's Order Handling Rules and corresponding NASD rule change and system modifications on the operation of the

[1] 15 U.S.C. § 78s(b)(1) (1994).

[2] 17 CFR 240.19b–4 (1997).

[3] The NASD has requested permanent approval of its short sale rule. Securities Exchange Act Release No. 38979 (Aug. 26, 1997), 62 FR 46537 (Sept. 3, 1997) [File No. SR–NASD–97–58]. In response to its solicitation of comments on the filing (SR–NASD–97–58), the Commission has received 352 comment letters to date, which will be considered in connection with the Commission's determination on SR–NASD–97–58.

[4] A short sale is a sale of a security which the seller does not own or any sale which is consummated by the delivery of a security borrowed by, or for the account of, the seller. To determine whether a sale is a short sale, members must adhere to the definition of a ''short sale'' contained in Rule 3b–3 of the Act, which rule is incorporated into Nasdaq's Rule by NASD Rule 3350(k)(1).

[5] Securities Exchange Act Release No. 34277 (June 29, 1994), 59 FR 34885 (July 7, 1994) [File No. SR–NASD–92–12] (''Short Sale Rule Approval Order'').

[6] The Rule was extended on several occasions. *See* Securities Exchange Act Release No. 39140 (Sept. 26, 1997), 62 FR 52170 (Oct. 6, 1997) [File No. SR–NASD–97–65]; Securities Exchange Act Release No. 37917 (Nov. 1, 1996), 61 FR 57934 (Nov. 8, 1996) [File No. SR–NASD–96–41]; Securities Exchange Act Release No. 36171 (Aug. 30, 1995), 60 FR 46651 (Sept. 7, 1995) [File No. SR–NASD–95–35]. The most recent extension of the pilot program through January 15, 1998, was to allow Nasdaq and the NASD to develop more meaningful primary market maker standards.

[7] Nasdaq calculates the inside bid or best bid from all market makers in the security (including bids on behalf of exchanges trading Nasdaq securities on an unlisted trading privileges basis) and disseminates symbols to denote whether the current inside bid is an ''up bid'' or a ''down bid.'' Specifically, an ''up bid'' is denoted by a green ''up'' arrow and a ''down bid'' is denoted by a red ''down'' arrow. To effect a ''legal'' short sale on a down bid, the short sale must be executed at a price at least a 1/16th of a point above the current inside bid. Conversely, if the security's symbol has a green ''up'' arrow next to it, members can effect short sales in the security without any restrictions.

[8] Under the PMM Standards, a market maker was required to satisfy at least two of the following four criteria each month to be eligible for an exemption from the Rule: (1) the market maker must be at the best bid or best offer as shown on Nasdaq no less than 35 percent of the time; (2) the market maker must maintain a spread no greater than 102 percent of the average dealer spread; (3) no more than 50 percent of the market maker's quotation updates may occur without being accompanied by a trade execution of at least one unit of trading; or (4) the market maker executes 1½ times its ''proportionate'' volume in the stock. If a PMM did not satisfy the threshold standards after a particular review period, the market maker lost its designation as a PMM (*i.e.*, the ''P'' next to its market maker identification was removed). Market makers could requalify for designation as a PMM by satisfying the threshold standards in the next review period.

four quantitative standards.[9] For example, among other effects, the requirement that market makers display customer limit orders adversely affected the ability of market makers to satisfy the ''102% Average Spread Standard.''

Furthermore, in an effort to not constrain the legitimate hedging needs of options market makers, the Rule contains a limited exception for standardized options market makers. The Rule also contains an exemption for warrant market makers similar to the one available for options market makers. The Rule also incorporates seven exemptions contained in Rule 10a–1 under the Act (''Rule 10a-1'') that are relevant to trading on Nasdaq.[10]

2. Proposal to Extend the Short Sale Rule

When the Commission approved the Rule on a temporary basis, it made specific findings that the Rule was consistent with Sections 11A, 15A(b)(6), 15A(b)(9), and 15A(b)(11) of the Act. Specifically, the Commission stated that, ''recognizing the potential for problems associated with short selling, the changing expectations of Nasdaq market participants and the competitive disparity between the exchange markets and the OTC market, the Commission believes that regulation of short selling of NNM securities is consistent with the Act.'' [11] In addition, the Commission stated that it ''believes that the NASD's short sale bid-test, including the market maker exemption, is a reasonable approach to short sale regulation of Nasdaq National Market securities and reflects the realities of its market structure.'' [12] However, in light of the Commission's concerns with adverse comments made about the Rule and the Commission's own concerns with the structure and impact of the Rule,[13] the Commission determined to approve the Rule on a temporary basis to afford the NASD and the SEC an opportunity study the effects of the Rule and its exemptions.[14] To address these concerns, in July 1996 and in August 1997, the NASD's Economic Research Department prepared two separate studies on the economic impact of the Rule, which concluded, among other things, that the Rule had no adverse impact on the market.[15] Accordingly, on August 8, 1997, the NASD submitted a proposed rule change that requested permanent approval of the Rule.[16] Additionally, on August 14, 1997, the NASD and Nasdaq submitted a proposed rule change to amend the definition of ''legal'' short sale in the Rule.[17]

On September 26, 1997, the Commission approved an extension of the Rule until January 15, 1998, to allow Nasdaq, to develop, and receive the required board approval for, more meaningful PMM standards.[18] On the same day, the Commission also approved on a temporary basis until January 15, 1998, the proposed amendment to the definition of ''legal'' short sale.[19] During its September 1997 meeting, the Nasdaq Board of Directors approved revised PMM standards, which were forwarded to, and approved by, the NASD Board of Governors at its October 9, 1997 meeting.

The NASD has had ongoing discussions with Commission staff regarding the PMM standards. In light of the foregoing, the NASD and Nasdaq are requesting an extension of the Rule until April 15, 1998. The extension of time also will allow the NASD and Nasdaq to provide Commission staff with additional information about the practical effects and the operation of the revised PMM standards, and to explore other options to PMM standards, such as a customer facilitation exemption for market makers. The NASD and Nasdaq also are requesting an extension to April 15, 1998, of the amendment to the definition of ''legal'' short sale, which previously was approved on a temporary basis until January 15, 1998.

The NASD believes the proposed rule change is consistent with Section 25A(b)(6) of the Act because the Rule is premised on the same anti-manipulation and investor protection concerns that underlie the SEC's own short sale rule, Rule 10a–1 under the Act. In particular, as with Rule 10a–1, the NASD believes its Rule promotes just and equitable principles of trade by permitting long sellers access to market prices at any time, while constraining the execution of potentially abusive and manipulative short sales at or below the bid in a declining market. In addition, as with Rule 10a–1, Nasdaq believes its Rule removes impediments to a free and open market for long sellers and helps to assure liquidity at bid prices that might otherwise be usurped by short sellers. Lastly, because the immediate beneficiaries of the Rule are shareholders of NNM companies, Nasdaq believes its Rule is designed to protect investors and the public interest. At the same time, given that the Rule does not constrain short sales in a raising market or prohibit the execution

[9] Securities Exchange Act Release No. 38294 (February 14, 1997), 62 FR 8289 (February 24, 1997) [File No. SR–NASD–97–07]. On October 3, 1997, the waiver of PMMs was extended until April 1, 1998. Securities Exchange Act Release No. 39198 (Oct. 3, 1997), 62 FR 53365 (Oct. 14, 1997) [SR–NASD–97–3].

[10] NASD Rule 3350(c)(2)–(8). The Rule also provides that a member not currently registered as a Nasdaq market maker in a security that has acquired the security while acting in the capacity of a block positioner shall be deemed to own such security for the purposes of the Rule notwithstanding that such member may not have a net long position in such security, if and to the extent that such member's short position in such security is subject to one or more offsetting positions created in the course of bona fide arbitrage, risk arbitrage, or bona fide hedge activities.

[11] Short Sale Rule Approval Order, *supra* note 5, at 34891.

[12] *Id.* at 34892.

[13] When the NASD's Rule was first considered by the Commission, the SEC received 397 comment letters on the proposal, with 275 comments opposed to the Rule and 122 comments in favor of the Rule. Those commenters opposed to the Rule argued that: (1) the NASD had failed to provide sufficient evidence of the need for the Rule or demonstrate the appropriateness of the Rule based on a ''bid'' test instead of ''tick'' test; (2) the PMM standards will have negative effects on both market makers and the Nasdaq market; and (3) the Rule is inconsistent with the requirements of the Act.

[14] In particular, before considering any NASD proposal to extend, modify, permanently implement or terminate the Rule, the Commission requested that the NASD examine: (1) the effects of the Rule on the amount of short selling; (2) the length of time that the Rule is in effect (*i.e.*, the duration of down bid situations); (3) the amount of non-market maker short selling permitted under the Rule; (4) the extent of short selling by market makers exempt from the Rule; (5) whether there have been any incidents of perceived ''abusive short selling''; (6) the effects of the Rule on spreads and volatility; (7) whether the behavior of bid prices has been significantly altered by the Rule; and (8) the effect of permitting short selling based on a minimum increment of 1/16th.

[15] In July 1996, the NASD's Economic Analysis Department completed a study on the economic impact of the Rule, which concluded that the Rule has had no adverse impact on the market. The Economic Impact of the Nasdaq Short Sale Rule, NASD Economic Research Department (July 23, 1996) (''July 1996 Short Sale Study''). In the same month, NASD submitted a proposal to adopt the Rule on a permanent basis. Securities Exchange Act Release No. 37942 (July 29, 1996), 61 FR 40693 (Aug. 5, 1996) [SR–NASD–96–30]. Because the NASD believed additional quantitative analysis was necessary to evaluate the effects of the Rule, the NASD withdrew this rule filing. In August 1997, the NASD's Economic Analysis Department completed a second study on the economic impact of the Rule, which further concluded that the Rule has had no adverse impact on the market. The Nasdaq Stock Market Short Sale Rule: Analysis of Market Quality Effects and The Market Maker Exemption, NASD Economic Research Department (August 7, 1997) (''August 1997, Short Sale Study'').

[16] Securities Exchange Act Release No. 38979 (Aug. 26, 1997), 62 FR 46537) (Sept. 3, 1997) [File No. SR–NASD–97–58].

[17] Securities Exchange Act Release No. 38975 (Aug. 26, 1997), 62 FR 46535 (Sept. 3, 1997) [File No. SR–NASD–97–59].

[18] *See* Securities Exchange Act Release No. 39140 (Sept. 26, 1997), 62 FR 52170 (Oct. 6, 1997) [File No. SR–NASD–97–65].

[19] Securities Exchange Act Release No. 39139 (Sept. 26, 1997), 62 FR 52169 (Oct. 6, 1997) [File No. SR–NASD–97–59]. The amendment provides that a ''legal'' short sale can be effected on a down bid: at a price of 1/16th above the bid when the inside spread is 1/16th or greater; or at a price equal to or greater than the offer price when the inside spread is less than 1/16th.

of short sales in a declining market above bid prices, Nasdaq believes the Rule does not diminish the important pricing efficiency and liquidity benefits that legitimate short selling activity provides.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD believes that the proposed rule change will not result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The NASD requests that its proposal to extend the effectiveness of the Rule and the amendment to the definition of a ''legal'' short sale until April 15, 1998, be approved on an accelerated basis prior to January 15, 1998.

IV. Commission's Findings and Order Granting Accelerated Approval of the Proposed Rule Change

The Commission finds that the NASD's proposed rule change seeking to extend the pilot of the Rule and the amendment to the definition of ''legal'' short sale through April 15, 1998, is consistent with the Act and the rules and regulations promulgated thereunder. Specifically, the Commission finds that the proposed rule change is consistent with Section 15A(b)(6) of the Act which requires that the NASD rules be designed, among other things, to facilitate securities transactions and to protect investors and the public interest. The Commission believes that the proposed rule change is consistent with the Act because extension of the pilot and the amendment to the definition of a ''legal'' short sale for a short period of time will allow the Commission and the NASD to consider the potential problems associated with short selling, the changing expectations of Nasdaq market participants and the potential for competitive disparity between the exchange markets and the over-the-counter market. This extension also will afford the NASD time to submit to the Commission revised PMM standards and will allow the Commission to review on a contemporaneous basis these two integrally related rules (*i.e.*, the short sale and PMM rules). Once the NASD develops reasonable PMM standards, the Commission will be in a better position to evaluate the need for a short sale rule as well as the appropriateness of an exemption for PMMs.

The Commission also finds good cause for approving the proposed rule change prior to the 30th day after the date of publication of notice of filing thereof. The Commission believes that it is appropriate to approve on an accelerated basis the extension of the pilot program of the Rule and the amendment to the definition of ''legal'' short sale through April 15, 1998, because it will ensure the continuous operation of the Rule and the amendment to the definition of ''legal'' short sale, while the NASD addresses the Commission's questions and concerns, provides Commission staff with additional information about the practical effects and the operation of the revised PMM standards, and explores other options to PMM standards, such as a customer facilitation exemption for market makers.

V. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. People making whiten 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 in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the NASD's principal offices. All submissions should refer to File No. SR–NASD–97–94 and should be submitted by February 11, 1998.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change, SR–NASD–97–94 be, and hereby is approved through April 15, 1998.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[20]

[20] 17 CFR 200.30–3(a)(12)(1997).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–1422 Filed 1–21–98; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

Region VIII Advisory Council Meeting; Public Meeting

The U.S. Small Business Administration Regional VIII Advisory Council located in the geographical area of Salt Lake City, Utah, will hold a public meeting at 9:00 a.m. on Wednesday, February 18, 1998, at the Salt Lake Area Chamber of Commerce, Media Room, at 175 East 400 South, Suite 600, Salt Lake City, 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 Stan Nakano, District Director, U.S. Small Business, 125 South State Street, Salt Lake City, Utah 84138, (801) 524–5804.

Eugene Carlson,

Associate Administrator, Office of Communication & Public Liaision.

[FR Doc. 98–1410 Filed 1–21–98; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms and Recordkeeping Requirements Agency Information Collection Activity Under OMB Review

AGENCY: Office of the Secretary, DOT.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), this notice announces that the Information Collection (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on October 30, 1997 [62 FR 58858].

DATES: Comments must be submitted on or before February 23, 1998.

FOR FURTHER INFORMATION CONTACT: Judith Street, ABC–100; Federal Aviation Administration; 800 Independence Avenue, S.W.;

Washington, DC 20591; Telephone number (202) 267–9895.

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Special Federal Aviation Regulation No. 71.

OMB Control Number: 2120–0620.

Type of Request: Extension of currently approved collection.

Affected Public: Individuals, business or other for-profit organizations.

Abstract: As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the FAA submitted these requirements to OMB. As a result, an emergency clearance of the information collection requirement (No. 2120–0620) has been approved through February 28, 1998.

SFAR 71, which became effective on October 26, 1994, applies to air tour operators in the state of Hawaii. Under the SFAR, both Part 91 and Part 135 operators are required to provide a passenger safety briefing on water ditching procedures, use of required flotation equipment, and emergency egress from the aircraft in event of a water landing.

Annual Estimated Burden Hours: 6,977 hours.

Addressee: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention FAA Desk Officer.

Comments are Invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Departments estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC on January 15, 1998.

Phillip A. Leach,

Clearance Officer, United States Department of Transportation.

[FR Doc. 98–1421 Filed 1–21–98; 8:45 am]

BILLING CODE 4910–62–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Index of Administrator's Decisions and Orders in Civil Penalty Actions; Publication

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of publication.

SUMMARY: This notice constitutes the required quarterly publication of an index of the Administrator's decisions and orders in civil penalty cases. This publication ensures that the agency is in compliance with statutory indexing requirements.

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SUPPLEMENTARY INFORMATION: The Administrative Procedure Act requires Federal agencies to maintain and make available for public inspection and copying current indexes containing identifying information regarding materials required to be made available or published. 5 U.S.C. 552(a)(2). In a notice issued on July 11, 1990, and published in the **Federal Register** (55 FR 29148; July 17, 1990), the FAA announced the public availability of several indexes and summaries that provide identifying information about the decisions and orders issued by the Administrator under the FAA's civil penalty assessment authority and the rules of practice governing hearings and appeals of civil penalty actions. 14 CFR Part 13, Subpart G.

The FAA maintains an index of the Administrator's decisions and orders in civil penalty actions organized by order number and containing identifying information about each decision or order. The FAA also maintains a cumulative subject-matter index and digests organized by order number.

The indexes are published on a quarterly basis (i.e., January, April, July, and October). This publication represents the quarter ending on December 31, 1997.

The FAA first published these indexes and digests for all decisions and orders issued by the Administrator through September 30, 1990. 55 FR 45984; October 31, 1990. The FAA announced in that notice that only the subject-matter index would be published cumulatively and that the order number index would be non-cumulative. The FAA announced in a later notice that the order number indexes published in January would reflect all of the civil penalty decisions for the previous year. 58 FR 5044; 1/19/93.

The previous quarterly publications of the indexes of the Administrator's decisions and orders in civil penalty cases have appeared in the **Federal Register** as follows:

Dates of quarter	Federal Register publication
11/1/89–9/30/90	55 FR 45984; 10/31/90.
10/1/90–12/31/90 ..	56 FR 44886; 2/6/91.
1/1/91–3/31/91	56 FR 20250; 5/2/91.
4/1/91–6/30/91	56 FR 31984; 7/12/91.
7/1/91–9/30/91	56 FR 51735; 10/15/91.
10/1/91–12/31/91 ..	57 FR 2299; 1/21/92.
1/1/92–3/31/92	57 FR 12359; 4/9/92.
4/1/92–6/30/92	57 FR 32825; 7/23/92.
7/1/92–9/30/92	57 FR 48255; 10/22/92.
10/1/92–12/31/92 ..	58 FR 5044; 1/19/93.
1/1/93–3/31/93	58 FR 21199; 4/19/93.
4/1/93–6/30/93	58 FR 42120; 8/6/93.
7/1/93–9/30/93	58 FR 58218; 10/29/93.
10/1/93–12/31/93 ..	59 FR 5466; 2/4/94.
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4/1/97–6/30/97	62 FR 38339; 7/17/97.
7/1/97–9/30/97	62 FR 53856; 10/16/97.

The civil penalty decisions and orders, and the indexes and digests are available in FAA offices. In addition, the Administrator's civil penalty decisions have been published by commerical publishers (Hawkins Publishing Company and Clark Boardman Callahan) and are available on computer on-line services (Westlaw, LEXIS, Compuserve and FedWorld). (The addresses of FAA offices where the civil penalty decisions may be reviewed and information regarding these commercial publications and computer databases is provided at the end of this notice.)

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108.11	90–23 Broyles; 90–26 Waddell; 91–3 Lewis; 92–46 Sutton-Sautter; 94–44 American Airlines.
108.13	90–12 & 90–19 Continental Airlines; 90–37 Northwest Airlines.
121.133	90–18 Continental Airlines.
121.153	92–48 & 92–70 USAir; 95–11 Horizon; 96–3 America West Airlines; 96–24 Horizon; 96–25 USAir; 97–21 Delta; 97–30 Emery Worldwide Airlines.
121.221	97–30 Emery Worldwide Airlines.
121.317	92–37 Giuffrida; 94–18 Luxemburg.
121.318	92–37 Giuffrida.
121.367	90–12 Continental Airlines; 96–25 USAir.
121.571	92–37 Giuffrida.
121.589	97–12 Mayer.
121.628	95–11 Horizon; 97–21 Delta; 97–30 Emery Worldwide Airlines.
135.1	95–8 Charter Airlines; 95–25 Conquest.
135.5	94–3 Valley Air; 94–20 Conquest Helicopters; 95–25 Conquest; 95–27 Valley Air; 96–15 Valley Air.
135.25	92–10 Flight Unlimited; 94–3 Valley Air; 95–27 Valley Air; 96–15 Valley Air.
135.63	94–40 Polynesian Airways; 95–17 Larry's Flying Service; 95–28 Atlantic; 96–4 South Aero.
135.87	90–21 Carroll.
135.95	95–17 Larry's Flying Service.

135.179	97–11 Hampton.
135.185	94–40 Polynesian Airways.
135.263	95–9 Charter Airlines; 96–4 South Aero.
135.267	95–8 Charter Airlines; 95–17 Larry's Flying Service; 96–4 South Aero.
135.293	95–17 Larry's Flying Service; 96–4 South Aero.
135.343	95–17 Larry's Flying Service.
135.411	97–11 Hampton.
135–413	94–3 Valley Air; 96–15 Valley Air; 97–8 Pacific Av. d/b/a Inter-Island Helicopters; 97–16 Mauna Kea.
135.421	93–36 Valley Air; 94–3 Valley Air; 96–15 Valley Air.
135–437	94–3 Valley Air; 96–15 Valley Air.
145.1	97–10 Alphin.
145.3	97–10 Alphin.
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145.53	90–11 Thunderbird Accessories.
145.57	94–2 Woodhouse; 97–9 Alphin; 97–32 Florida Propeller.
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298.1	92–10 Flight Unlimited.
302.8	90–22 USAir.

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1.47	92–76 Safety Equipment.
171 et seq.	95–10 Diamond.
171.2	92–77 TCI; 94–28 Toyota; 94–31 Smalling; 95–16 Mulhall; 96–26 Midtown.
171.8	92–77 TCI.
172.101	92–77 TCI; 94–28 Toyota; 94–31 Smalling; 96–26 Midtown.
172.200	92–77 TCI; 93–28 Toyota; 95–16 Mulhall; 96–26 Midtown.
172.202	92–77 TCI; 94–28 Toyota; 94–31 Smalling; 95–16 Mulhall.
172.203	94–28 Toyota.
172.204	92–77 TCI; 94–28 Toyota; 94–31 Smalling; 95–16 Mulhall.
172.300	94–31 Smalling; 95–16 Mulhall; 96–26 Midtown.
172.301	94–31 Smalling; 95–16 Mulhall.
172.304	92–77 TCI; 94–31 Smalling; 95–16 Mulhall.
172.400	92–77 TCI; 94–28 Toyota; 94–31 Smalling; 95–16 Mulhall.
172.402	94–28 Toyota.
172.406	92–77 TCI.
173.1	92–77 TCI; 94–28 Toyota; 94–31 Smalling; 95–16 Mulhall.
173.3	94–28 Toyota; 94–31 Smalling.
173.6	94–28 Toyota.
173.22(a)	94–28 Toyota; 94–31 Smalling.
173.24	94–28 Toyota; 95–16 Mulhall.
173.25	94–28 Toyota.
173.27	92–77 TCI.
173.115	92–77 TCI.
173.240	92–77 TCI.
173.243	94–28 Toyota.
173.260	94–28 Toyota.
173.266	94–28 Toyota; 94–31 Smalling.
175.25	94–31 Smalling.
191.5	97–13 Westair Commuter.
191.7	97–13 Westair Commuter.
821.30	92–73 Wyatt.
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504	90–17 Wilson; 91–17 & 92–71 KDS Aviation; 92–74; 93–2 & 93–9 Wendt; 93–29 Sweeney; 94–17 TCI; 95–27 Valley Air; 96–22 Woodhouse.
552	90–12, 90–18 & 90–19 Continental Airlines; 93–10 Costello.
554	90–18 Continental Airlines; 90–21 Carroll; 95–12 Toyota.
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Civil Penalty Actions—Orders Issued by The Administrator Digests

(Current as of December 31, 1997)

The digests of the Administrator's final decisions and orders are arranged by order number, and briefly summarize key points of the decision. The following compilation of digests includes all final decisions and orders issued by the Administrator from October 1, 1997, to December 31, 1997. The FAA publishes noncumulative supplements to this compilation on a quarterly basis (e.g., April, July, October, and January of each year).

These digests do not constitute legal authority, and should not be cited or relied upon as such. The digests are not intended to serve as a substitute for proper legal research. Parties, attorneys, and other interested persons should always consult the full text of the Administrator's decisions before citing them in any context.

In the Matter of Air St. Thomas

[Order No. 97–29 (10/1/97)]

Appeal Dismissed. Respondent has failed to show good cause for the lateness of its notice of appeal. As a result, its appeal is dismissed.

In the Matter of Emery Worldwide Airlines

[Order No. 97–30 (10/8/97)]

Aircraft Held Unairworthy. It was proven by the preponderance of the evidence that plexiglass light covers were missing in the cargo compartment of this DC–8–63 freighter during 21 flights. The Administrator affirmed the law judge's finding that the light covers had simply been removed while the light bulbs were being changed, were then reinstalled and were in place during the flights. The Administrator also affirmed the law judge's determination that the replacement of the missing plexiglass light covers could not be deferred under Respondent's Minimum Equipment List (MEL). The aircraft was unairworthy because, without the light covers, the aircraft deviated from its type design. The Administrator did not decide whether the aircraft was in a condition unsafe for flight due to the missing light covers. The Administrator affirms the $9,000 civil penalty assessed by the law judge.

In the Matter of Sanford Air

[Order No. 97–31 (10/8/97)]

Responsibility for repairs for which Respondent has billed the customer. If Respondent was unaware of its employee's activities, its own deficiencies in supervising the employee are the cause.

Repair Station Responsibility. Repair station is responsible for improper repairs performed by its employee, despite Respondent's argument that repairs were performed after hours and off company premises. Respondent may not evade.

Lateness of Initial Decision. Dismissal is not an appropriate remedy for law judge's failure to issue written initial decision within 30 days. If time was Respondent's real concern, its remedy was to initiate action to compel the law judge to issue his decision. Respondent did not do this, nor has it shown any prejudice resulting from the delay. The law judge's order assessing a civil penalty of $4,750 is affirmed.

In the Matter of Florida Propeller

[Order No. 97–32 (10/8/97)]

Evidence Insufficient. Complainant alleged that it was impossible for propeller blades to wear down so much in short time that passed since Respondent's overhaul of the propeller, and therefore, Respondent must have returned the propeller to service with undersized blades. It may be that it is impossible to wear down propeller blades in such a short time, but the evidence in this case is insufficient to prove this claim. Although Complainant argued it had unrebutted expert testimony that blades could not have worn down so much, the witness Complainant relied on admitted he had

no expertise or training in propeller wear and tear. The law judge believed the propeller mechanic who testified that he measured the blades at the time of overhaul, and the blades were within limits. Complainant has provided insufficient reason to overturn the law judge's credibility determinations, which are entitled to deference. The law judge's dismissal of the complaint is affirmed.

Failure to Preserve Issue for Appeal. Complainant argues that the case should be remanded to permit it to introduce its rebuttal testimony, which the law judge excluded. By refusing to offer the substance of the rebuttal testimony for the record, Complainant failed to preserve this issue for appeal.

In the Matter of Daniel B. Rawlings

[Order No. 97–33 (10/21/97)]

Memo to Law Judge Construed as Notice of Appeal; Respondent Directed to File Appeal Brief. After Respondent failed to file an answer to the complaint, the law judge issued an order assessing a civil penalty. Five days later, Respondent sent the law judge a memorandum indicating that he had not received either the complaint or the law judge's initial order advising him of the need to file an answer. Respondent's memorandum can be construed as a notice of appeal from the law judge's order assessing a civil penalty. Although ordinarily a party must perfect its appeal by filing an appeal brief within 50 days of the initial decision, an exception will be made here because Respondent's memorandum was not construed as a notice of appeal until now. As a result, Respondent is given until November 25, 1997, to file an appeal brief. If Respondent fails, without good cause, to meet this deadline, the law judge's order assessing a $2,000 civil penalty will be affirmed. Respondent's appeal brief should address whether Respondent had good cause for failing to file a timely answer to the complaint. Complainant is granted 35 days from the service date of Respondent's appeal brief to file a reply brief.

In the Matter of Continental Airlines

[FAA Order No. 97–34 (10/23/97)]

Leave to File Additional Brief Denied. Complainant seeks leave to file a reply to Continental's reply brief. In Continental's reply brief, Continental attacked the validity of a security directive; Complainant had not addressed the issue of the validity of the security directive in its appeal brief.

Good cause does not exist to grant Complainant's petition for leave to file an additional brief. The Federal Courts of Appeals constitute a more appropriate forum to attack existing regulations as not consistent with the U.S. Constitution, the Administrative Procedure Act, and/or the agency's enabling act. In this case, Continental is arguing that the public should have been given notice and opportunity to comment before the security directive became effective. Whether notice and an opportunity to comment should have been afforded when the security directive was issued is a question that is better left for review by a Federal Court. Also, the question of whether the security directive is justified has nothing to do with the facts of this case, and is better directed to a Federal Court.

In the Matter of Gordon Air Services

[Order No. 97–35 (10/29/97)]

Appeal Dismissed. Respondent failed to perfect its appeal by filing an appeal brief. As a result, Respondent's appeal is dismissed.

In the Matter of Avcon Conversions, Inc.

[Order No. 97–36 (10/29/97)]

Appeal Dismissed. Respondent failed to perfect its appeal by filing an appeal brief. As a result, Respondent's appeal is dismissed.

In the Matter of David E. Roush

[Order No. 97–37 (10/29/97)]

Appeal Dismissed. Respondent failed to perfect its appeal by filing an appeal brief. As a result, Respondent's appeal is dismissed.

In the Matter of Air St. Thomas

[Order No. 97–38 (11/17/97)]

Further Briefing Ordered. In an earlier order (FAA Order No. 97–29), the Administrator dismissed Respondent's appeal due to the lateness of its notice of appeal. Respondent then filed a document captioned ''Notice of Appeal to Reopen Case,'' which can be construed as a petition for reconsideration of the Administrator's order of dismissal.

The record of this case does not explain Respondent's reasons for failing to file a timely notice of appeal. As a result, it is unclear whether Respondent had good cause for the untimeliness. Respondent is granted until January 20, 1998, to file a brief detailing its reasons for failing to file a timely notice of appeal. As for Complainant, Complainant is granted 30 days from the service date of Respondent's brief to file a reply brief.

In the Matter of Delta Air Lines

[FAA Order No. 97–39 (12/1/97)]

Appeal Dismissed. Complainant withdrew its notice of appeal. Complainant's appeal is dismissed.

Commercial Reporting Services of the Administrator's Civil Penalty Decisions and Orders

1. *Commercial Publications:* The Administrator's decisions and orders in civil penalty cases are available in the following commercial publications:

Civil Penalty Cases Digest Service, published by Hawkins Publishing Company, Inc., P.O. Box 480, Mayo, MD 21106, (410) 798–1677;

Federal Aviation Decisions, Clark Boardman Callaghan, a subsidiary of West Information Publishing Company, 50 Broad Street East, Rochester, NY 14694, 1–800–221–9428.

2. *CD-ROM.* The Administrator's orders and decisions are available on CD-ROM through Aeroflight Publications, P.O. Box 854, 433 Main Street, Gruver, TX 79040, (806) 733–2483.

3. *On-Line Services.* The Administrator's decisions and orders in civil penalty cases are available through the following on-line services:

- Westlaw (the Database ID is FTRAN-FAA).
- LEXIS [Transportation (TRANS) Library, FAA file.].
- Compuserve.
- FedWorld.

FAA Offices

The Administrator's decisions and orders, indexes, and digests are available for public inspection and copying at the following location in FAA headquarters:

FAA Hearing Docket, Federal Aviation Administration, 800 Independence Avenue, SW., Room 924A, Washington, DC 20591; (202) 267–3641.

These materials are also available at all FAA regional and center legal offices at the following locations:

Office of the Assistant Chief Counsel for the Aeronautical Center (AMC–7), Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73125; (405) 954–3296.

Office of the Assistant Chief Counsel for the Alaskan Region (AAL–7), Alaskan Region Headquarters, 222 West 7th Avenue, Anchorage, AL 99513; (907) 271–5269.

Office of the Assistant Chief Counsel for the Central Region (ACE–7), Central Region Headquarters, 601 East 12th Street, Federal Building, Kansas City, MO 64106; (816) 426–5446.

Office of the Assistant Chief Counsel for the Eastern Region (AEA–7), Eastern Region Headquarters, JFK International Airport, Federal Building, Jamaica, NY 11430; (718) 553–3285.

Office of the Assistant Chief Counsel for the Great Lakes Region (AGL–7), 2300 East Devon Avenue, Suite 419, Des Plaines, IL 60018; (708) 294–7108.

Office of the Assistant Chief Counsel for the New England Region (ANE–7), New England Region Headquarters, 12 New England Executive Park, Room 401, Burlington, MA 01803–5299; (617) 238–7050.

Office of the Assistant Chief Counsel for the Northwest Mountain Region (ANM–7), Northwest Mountain Region Headquarters, 1601 Lind Avenue, SW, Renton, WA 98055–4056; (206) 227–2007.

Office of the Assistant Chief Counsel for the Southern Region (ASO–7), Southern Region Headquarters, 1701 Columbia Avenue, College Park, GA 30337; (404) 305–5200.

Office of the Assistant Chief Counsel for the Southwest Region (ASW–7), Southwest Region Headquarters, 2601 Meacham Blvd., Fort Worth, TX 76137–4298; (817) 222–5087.

Office of the Assistant Chief Counsel for the Technical Center (ACT–7), Federal Aviation Administration Technical Center, Atlantic City International Airport, Atlantic City, NJ 08405; (609) 485–7087.

Office of the Assistant Chief Counsel for the Western-Pacific Region (AWP–7), Western-Pacific Region Headquarters, 15000 Aviation Boulevard, Lawndale, CA 90261; (310) 725–7100.

Issued in Washington, DC on January 12, 1998.

James S. Dillman,

Assistant Chief Counsel for Litigation.

[FR Doc. 98–1499 Filed 1–21–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Executive Committee of the Aviation Rulemaking Advisory Committee; Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the Executive Committee of the Federal Aviation Administration Aviation Rulemaking Advisory Committee.

DATES: The meeting will be held on February 11, 1998, at 10 a.m.

ADDRESSES: The meeting will be held at the Aerospace Industries Association of America, 1250 Eye Street, NW., Goddard Room, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Miss Jean Casciano, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–9683; fax (202) 267–5075; e-mail Jean.Casciano@faa.dot.gov.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. II), notice is hereby given of a meeting of the Executive Committee to be held on February 11, 1998, at the Aerospace Industries Association of America, 1250 Eye Street, NW., Goddard Room, Washington, DC, 10 a.m. The agenda will include:

- A vote on a proposed Use of Digital Systems for Direct Access and Interchange of Technical Data advisory circular.
- A brief update on the status of the proposed new Fuel Tank Harmonization Working Group.
- A brief update on the status of the Overflights of the National Parks effort.
- A brief update on the Rulemaking Business Process Reengineering effort.
- Administrative issues.

Attendance is open to the interested public but will be limited to the space available. The public must make arrangements by February 2, 1998, to present oral statements at the meeting. The public may present written statements to the executive committee at any time by providing 25 copies to the Executive Director, or by bringing the copies to him at the meeting.

Sign and oral interpretation can be made available at the meeting, as well as an assistive listening device, if requested 10 calendar days before the meeting. Arrangements may be made by contacting the person listed under the heading **FOR FURTHER INFORMATION CONTACT**. A copy of the proposed advisory circular being put to a vote may also be obtained from that person.

Issued in Washington, DC, on January 15, 1998.

Joseph A. Hawkins,

Executive Director, Aviation Rulemaking Advisory Committee.

[FR Doc. 98–1497 Filed 1–21–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose and Use a Passenger Facility Charge (PFC) at Fort Lauderdale-Hollywood International Airport, Fort Lauderdale, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use a PFC at Fort Lauderdale-Hollywood International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before January 23, 1998.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Orlando Airports District Office, 5950 Hazeltine National Dr., Suite 400, Orlando, Florida 32822.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to William F. Sherry, Manager of Airports of the Broward County Aviation Department at the following address: 320 Terminal Drive, Fort Lauderdale, Florida 33315.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Broward County Aviation Department under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Sandra A. Holliday, Project Manager, Orlando Airports District Office, 5950 Hazeltine National Dr., Suite 400, Orlando Florida 32822, 407–812–6331. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use a PFC at Fort Lauderdale-Hollywood International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On January 13, 1998, the FAA determined that the application to impose and use a PFC submitted by the Broward County Aviation Department was substantially complete within the

requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than April 30, 1998.

The following is a brief overview of PFC Application No. 98–02–C–00–FLL.

Level of the proposed PFC: $3.00.

Proposed charge effective date: September 1, 1998.

Proposed charge expiration date: February 1, 2009.

Total estimated PFC revenue: $224,761,000.

Brief description of proposed project(s): Dual Parallel Taxiway A (now called Taxiway C); Air Cargo Apron and Drainage; Noise Monitoring System; New Terminal Development; Muck Removal—New Terminal Development; Utility Corridor; Airport Facilities Maintenance Building; Terminal Roadway Improvements; Hardstand Support Facility; EVIDS and Life Safety Improvements; Modifications of ASR–9 Radar; ARFF Facility Improvements; Interior Service Road Development; Water and Sewer Improvements; Muck Removal—Future Phases; Future Phase—Terminal Design; Aviation Easements; West Side Apron Phase 2 and 3; Decommission VOR; ARFF Vehicle; Taxiway A (now called Taxiway C)—Center Section; Rebuild 4th Avenue and Noise Buffer Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air Taxi/Commercial Operators filing FAA Form 1800–31; Scheduled Foreign Flag Air Carriers filing RSPA Form T–100(f) operating scheduled intercontinental service from Fort Lauderdale-Hollywood International Airport.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Broward County Aviation Department.

Issued in Orlando, Florida on January 14, 1998.

Charles E. Blair,

Manager, Orlando Airports District Office, Southern Region.

[FR Doc. 98–1498 Filed 1–21–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[FRA Docket No. 87–2, Notice. No. 6]

RIN 2130–AB20

Automatic Train Control and Advanced Civil Speed Enforcement System; Northeast Corridor Railroads

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of public hearing.

SUMMARY: The Federal Railroad Administration will hold a public hearing concerning issues raised in a November 20, 1997 proposed order of particular applicability that would require all trains operating on the north end of the Northeast Corridor (NEC) between Boston, Massachusetts and New York, New York, to be controlled by locomotives equipped to respond to a new advanced civil speed enforcement system (ACSES) in addition to the automatic train control (ATC) system that is currently required on the NEC. The proposed order contains performance standards for the cab signal/ATC and ACSES systems on the NEC and would also authorize increases in certain maximum authorized train speeds and safety requirements supporting improved rail service.

DATES: (1) The hearing will begin at 10:00 a.m. on Tuesday, February 17, 1998, Eastern Standard Time.

(2) Any party wishing to participate in the public hearing should notify the Docket Clerk by telephone or fax at the numbers provided below, or by mail at the address provided below, by February 12, 1998. The notification should include who the party represents, the particular subject(s) the party plans to address, the party's mailing address and three copies of any oral statement that he or she intends to make at the hearing. Parties who do not meet this deadline may be denied the opportunity to present oral testimony, although their written statements will be included in the record of this proceeding.

(3) Parties who do not wish to testify, but wish to submit written comments for inclusion in the hearing docket should submit them by February 24, 1998.

ADDRESSES: (1) Hearing location—9th Floor, 1120 Vermont Avenue, N.W., Washington, D.C. 20005.

(2) Ms. Renee Bridgers, Docket Clerk, FRA Docket No. 87–2, Office of the Chief Counsel, Federal Railroad Administration, Mail Stop 10, 400 7th Street, S.W., Washington, D.C. 20590 (telephone (202) 632–3198, fax (202) 632–3709).

FOR FURTHER INFORMATION CONTACT: W.E. Goodman, Staff Director, Signal and Train Control Division, Office of Safety, FRA, 400 Seventh Street, S.W., Washington, D.C. 20590 (telephone (202) 632–3353), or Patricia V. Sun, Office of Chief Counsel, FRA, 400 Seventh Street, S.W., Washington, D.C. 20590 (telephone (202) 632–3183).

Background

The notice of proposed order was published on November 20, 1997 (62 FR 62097). In response to the proposed order, two commenters, the American Public Transit Association, and the Providence and Worcester Railroad, requested a public hearing. FRA is holding this public hearing in lieu of a previously scheduled Northeast Corridor Safety Committee meeting, which will be rescheduled and announced in a separate **Federal Register** notice.

Issued in Washington, D.C., on January 9, 1998.

S. Mark Lindsey,

Chief Counsel.

[FR Doc. 98–1075 Filed 1–21–98; 8:45 am]

BILLING CODE 4910–06–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–55 (Sub-No. 558X)]

CSX Transportation, Inc.—Abandonment Exemption—in Franklin County, TN

CSX Transportation, Inc. (CSXT) has filed a notice of exemption under 49 CFR part 1152 Subpart F—*Exempt Abandonments* to abandon approximately 1.41 miles of its line of railroad between milepost OJC–0.30 and milepost OJC–1.71 at the end of track, in Decherd, Franklin County, TN. The line traverses United States Postal Service Zip Code 37324.

CSXT has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic moving over the line; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7

(environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment— Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on February 21, 1998, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by February 2, 1998. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by February 11, 1998, with: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicant's representative: Charles M. Rosenberger, Senior Counsel, CSX Transportation, Inc., 500 Water Street J150, Jacksonville, FL 32202.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

CSXT has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by January 27, 1998. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565–1545. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), CSXT shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by CSXT's filing of a notice of consummation by January 22, 1999, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Decided: January 12, 1998.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 98–1527 Filed 1–21–98; 8:45 am]

BILLING CODE 4915–00–P

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis in its independent investigation) cannot be made before the exemption's effective date. See *Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $900. See 49 CFR 1002.2(f)(25).

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

January 12, 1998.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Special Request

In order to begin the survey described below in early February 1998, the Department of the Treasury is requesting that the Office of Management and Budget (OMB) review and approve this information collection by January 15, 1998. To obtain a copy of this study, please contact the Internal Revenue Service Clearance Officer at the address listed below.

Internal Revenue Service (IRS)

OMB Number: 1545–1432.

Project Number: M:SP:V 98–001G.

Type of Review: Revision.

Title: Revenue Agent Competencies Structured Group Interviews.

Description: The objective of these structured group interviews is to gather feedback from Tax Practitioners to assist IRS in developing a complete list of the performance competencies required of Revenue Agents. Because Tax Practitioners work intimately with Revenue Agents on audits, their input is vital in developing a complete picture of the competencies required. Corporate Education will conduct a series of four structured groups which will be held in Philadelphia, Pa., Jacksonville, Fl., St. Louis, Mo. and Oakland, Ca.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 32.

Estimated Burden Hours Per Response: 3 hours.

Frequency of Response: Other (one-time only).

Estimated Total Reporting Burden: 51 hours.

Clearance Officer: Garrick Shear, (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, N.W., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 98–1500 Filed 1–21–98; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission to OMB for Review; Comment Request

January 13, 1998.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Internal Revenue Service (IRS)

OMB Number: New.

Form Number: None.

Type of Review: New collection.

Title: 1988 Electronic Tax Administration Attitudinal Tracking Study.

Description: The survey is being conducted to establish a baseline measure of public knowledge and acceptance of Electronic Tax

Administration programs and to provide the IRS with quantitative data and analysis to assist with making policy decisions on how to expand the programs.

Respondents: Individuals or households.

Estimated Number of Respondents: 1,030.

Estimated Burden Hours Per Respondent: 20 minutes.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 379 hours.

OMB Number: 1545–0073.

Form Number: IRS Form 1310.

Type of Review: Extension.

Title: Statement of Person Claiming Refund Due a Deceased Taxpayer.

Description: Form 1310 is used by a claimant to secure payment of a refund on behalf of a deceased taxpayer. The information enables IRS to send the refund to the correct person.

Respondents: Individuals or households.

Estimated Number of Respondents/ Recordkeepers: 7,500.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—7 min.

Learning about the law or the form—3 min.

Preparing the form—16 min.

Copying, assembling, and sending the form to the IRS—17 min.

Frequency of Response: On occasion.

Estimated Total Reporting/ Recordkeeping Burden: 5,325 hours.

OMB Number: 1545–0138.

Form Number: IRS Form 2063.

Type of Review: Revision.

Title: U.S. Departing Alien Income Tax Statement.

Description: Form 2063 is used by a departing resident alien against whom a termination assessment has not been made, or a departing nonresident alien who has no taxable income from United States sources, to certify that they have satisfied all U.S. income tax obligations. The data is used by IRS to certify that departing aliens have complied with U.S. income tax laws.

Respondents: Individuals or households.

Estimated Number of Respondents/ Recordkeepers: 20,540.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—7 min.

Learning about the law or the form—3 min.

Preparing the form—26 min.

Copying, assembling, and sending of the form to the IRS—14 min.

Frequency of Response: On occasion.

Estimated Total Reporting/ Recordkeeping Burden: 17,048 hours.

OMB Number: 1545–0159.

Form Number: IRS Form 3520.

Type of Review: Extension.

Title: Annual Return to Report Transactions with Foreign Trusts and Receipt of Certain Foreign Gifts.

Description: Form 3520 is filed by U.S. persons who create a foreign trust, transfer property to a foreign trust, receive a distribution from a foreign trust, or receive a large gift from a foreign source. IRS uses the form to identify the U.S. persons who may have transactions that may trigger a taxable event in the future.

Respondents: Business or other for-profit.

Estimated Number of Respondents/ Recordkeepers: 2,000.

Estimated Burden Hours Per Respondent/Recordkeeper.

Recordkeeping—50 hr., 28 min.

Learning about the law or the form—4 hr., 44 min.

Preparing the form—6 hr., 42 min.

Sending the form to the IRS—16 min.

Frequency of Response: Annually.

Estimated Total Reporting/ Recordkeeping Burden: 124,320 hours.

OMB Number: 1545–0889.

Form Number: IRS Forms 8275 and 8275–R.

Type of Review: Extension.

Title: Disclosure Statement and Regulation Disclosure Statement.

Description: Internal Revenue Code (IRC) section 6662 imposes accuracy related penalties for substantial understatement of tax liability or negligence or disregard of rules and regulations. Section 6694 imposes similar penalties on return preparers. Regulations sections 1.6662–4(e)&(f) provide for reduction of these penalties if adequate disclosure of the tax treatment is made on Form 8275 or if the position is contrary to a regulation, Form 8275–R.

Respondents: Individuals or households, Farms, Business or other for-profit.

Estimated Number of Respondents/ Recordkeepers: 595,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

	Form 8275	Form 8275–R
Recordkeeping	2 hr., 23 min	2 hr., 38 min.
Learning about the law or the form	47 min	35 min.
Preparing and sending the form to the IRS	52 min	40 min.

Frequency of Response: Annually.

Estimated Total Reporting/ Recordkeeping Burden: 3,970,000 hours.

OMB Number: 1545–1305.

Form Number: IRS Forms 9460 (cat# 14762P) and 9477 (cat# 14891T).

Type of Review: Extension.

Title: Tax Forms Inventory Report.

Description: These forms are designed to collect tax forms inventory information from banks, post offices, and libraries that distribute federal tax forms. Data is collected detailing the quantities and types of tax forms remaining at the end of the filing season. The data is combined with shipment data for each account and used to establish forms distribution guidelines for the following year. Source code data is collected to verify that the different entities received tax forms with the correct code.

Respondents: Business or other for-profit, Not-for-profit institutions, Federal Government.

Estimated Number of Respondents: 10,720.

Estimated Burden Hours Per Respondent:

Form 9460 (cat# 14762P)—10 min.

Form 9477 (cat# 14891T)—15 min.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 2,600 hours.

OMB Number: 1545–1455.

Regulation Project Number: PS–80–93 Final.

Type of Review: Extension.

Title: Rules for Certain Rental Real Estate Activities.

Description: The information required by these regulations will be used by the Internal Revenue Service to aid in the administration of the law and to determine whether a taxpayer that qualifies for treatment under section 469(c)(7) has made the election under section 469(c)(7)(A).

Respondents: Individuals and households, Business or other for-profit.

Estimated Number of Respondents: 20,100.

Estimated Burden Hours Per Respondent: 9 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 3,015 hours.

OMB Number: 1545–1458.

Regulation Project Number: REG–209835–86 Final (formerly INTL–933–86).

Type of Review: Extension.

Title: Computation of Foreign Taxes Deemed Paid Under Section 902 Pursuant to a Pooling Mechanism for Undistributed Earnings and Foreign Taxes.

Description: These regulations provide rules for computing foreign taxes deemed paid under section 902. The regulations affect foreign corporations and their U.S. corporate shareholders.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 1.

Estimated Burden Hours Per Respondent: 1.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 1 hour.

Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW, Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 98–1501 Filed 1–21–98; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission to OMB for Review; Comment Request

January 14, 1998.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Internal Revenue Service (IRS)

OMB Number: 1545–0145.

Form Number: IRS Form 2439.

Type of Review: Extension.

Title: Notice to Shareholder of Undistributed Long-Term Capital Gains.

Description: Form 2439 is sent by regulated investment companies and real estate investment trusts to report undistributed capital gains and the amount of tax paid on these gains designated under IRC section 852(b)(3)(D) or 857(b)(3)(D). The company, the trust, and the shareholder file copies of Form 2439 with IRS. IRS uses the information to check shareholder compliance.

Respondents: Business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 8,363.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—2 hr., 52 min.

Learning about the law or the form—35 min.

Preparing and sending the form to the IRS—40 min.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 34,539 hours.

Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW, Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 98–1502 Filed 1–21–98; 8:45 am]

BILLING CODE 4830–01–P

federal register

Thursday
January 22, 1998

Part II

Environmental Protection Agency

40 CFR Part 721

Significant New Uses of Certain Chemical Substances; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 721

[OPPTS–50628; FRL–5720–3]

RIN 2070–AB27

Significant New Uses of Certain Chemical Substances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is promulgating significant new use rules (SNURs) under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for 163 chemical substances which were the subject of premanufacture notices (PMNs) and subject to TSCA section 5(e) consent orders issued by EPA. Today's action requires persons who intend to manufacture, import, or process these substances for a significant new use to notify EPA at least 90 days before commencing the manufacturing or processing of the substance for a use designated by this SNUR as a significant new use. The required notice will provide EPA with the opportunity to evaluate the intended use, and if necessary, to prohibit or limit that activity before it occurs. EPA is promulgating this SNUR using direct final procedures.

DATES: The effective date of this rule is March 23, 1998. This rule shall be promulgated for purposes of judicial review at 1 p.m. (e.s.t.) on February 5, 1998.

If EPA receives notice before February 23, 1998 that someone wishes to submit adverse or critical comments on EPA's action in establishing a SNUR for one or more of the chemical substances subject to this rule, EPA will withdraw the SNUR for the substance for which the notice of intent to comment is received and will issue a proposed SNUR providing a 30-day period for public comment.

ADDRESSES: Each comment or notice of intent to submit adverse or critical comment must bear the docket control number OPPTS–50628 and the name(s) of the chemical substance(s) subject to the comment. All comments should be sent in triplicate to: OPPT Document Control Officer (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M Street, SW., Room G–099, East Tower, Washington, DC 20460.

Comments and data may also be submitted electronically to: oppt.ncic@epamail.epa.gov. Follow the instructions under Unit X of this document. No Confidential Business Information (CBI) should be submitted through e-mail.

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 on 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 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: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–543A, 401 M St., SW., Washington, DC 20460, telephone: (202) 554–1404, TDD: (202) 554–0551; e-mail: TSCA-Hotline@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

Electronic Availability: Electronic copies of this document 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/).

This SNUR will require persons to notify EPA at least 90 days before commencing manufacturing or processing a substance for any activity designated by this SNUR as a significant new use. The supporting rationale and background to this rule are more fully set out in the preamble to EPA's first direct final SNURs published in the **Federal Register** of April 24, 1990 (55 FR 17376). Consult that preamble for further information on the objectives, rationale, and procedures for the rules and on the basis for significant new use designations including provisions for developing test data.

I. Authority

Section 5(a)(2) of TSCA (15 U.S.C. 2604(a)(2)) authorizes EPA to determine that a use of a chemical substance is a ''significant new use.'' EPA must make this determination by rule after considering all relevant factors, including those listed in TSCA section 5(a)(2). Once EPA determines that a use of a chemical substance is a significant new use, section 5(a)(1)(B) of TSCA requires persons to submit a notice to EPA at least 90 days before they manufacture, import, or process the substance for that use. The mechanism for reporting under this requirement is established under 40 CFR 721.10.

II. Applicability of General Provisions

General provisions for SNURs appear under 40 CFR part 721, subpart A. These provisions describe persons subject to the rule, recordkeeping requirements, exemptions to reporting requirements, and applicability of the rule to uses occurring before the effective date of the final rule. Provisions relating to user fees appear at 40 CFR part 700. Persons subject to this SNUR must comply with the same notice requirements and EPA regulatory procedures as submitters of PMNs under section 5(a)(1)(A) of TSCA. In particular, these requirements include the information submission requirements of TSCA section 5(b) and 5(d)(1), the exemptions authorized by section 5 (h)(1), (2), (3), and (5), and the regulations at 40 CFR part 720. Once EPA receives a SNUR notice, EPA may take regulatory action under TSCA section 5(e), 5(f), 6, or 7 to control the activities on which it has received the SNUR notice. If EPA does not take action, EPA is required under TSCA section 5(g) to explain in the **Federal Register** its reasons for not taking action.

Persons who intend to export a substance identified in a proposed or final SNUR are subject to the export notification provisions of TSCA section 12(b). The regulations that interpret section 12(b) appear at 40 CFR part 707. Persons who intend to import a chemical substance identified in a final SNUR are subject to the TSCA section 13 import certification requirements, which are codified at 19 CFR 12.118 through 12.127 and 127.28. Such persons must certify that they are in compliance with SNUR requirements. The EPA policy in support of the import certification appears at 40 CFR part 707.

III. Substances Subject to This Rule

EPA is establishing significant new use and recordkeeping requirements for the following chemical substances under 40 CFR part 721, subpart E. In this unit, EPA provides a brief description for each substance, including its PMN number, chemical name (generic name if the specific name is claimed as CBI), CAS number (if assigned and and the specific chemical identity is not claimed as CBI), basis for the action taken by EPA in the TSCA section 5(e) consent order or as a non-

section 5(e) SNUR for the substance (including the statutory citation and specific finding), toxicity concern, and the CFR citation assigned in the regulatory text section of this rule. The specific uses which are designated as significant new uses are cited in the regulatory text section of this document by reference to 40 CFR part 721, subpart B where the significant new uses are described in detail. Certain new uses, including production limits and other uses designated in the rule are claimed as CBI. The procedure for obtaining confidential information is set out in Unit VII. of this preamble.

Where the underlying TSCA section 5(e) order prohibits the PMN submitter from exceeding a specified production limit without performing specific tests to determine the health or environmental effects of a substance, the tests are described in this unit. As explained further in Unit VI. of this preamble, the SNUR for such substances contains the same production limit, and exceeding the production limit is defined as a significant new use. Persons who intend to exceed the production limit must notify the Agency by submitting a significant new use notice (SNUN) at least 90 days in advance. In addition, this unit describes tests that are recommended by EPA to provide sufficient information to evaluate the substance, but for which no production limit has been established in the TSCA section 5(e) order. Descriptions of recommended tests are provided for informational purposes.

Data on potential exposures or releases of the substances, testing other than that specified in the TSCA section 5(e) order for the substances, or studies on analogous substances, which may demonstrate that the significant new uses being reported do not present an unreasonable risk, may be included with significant new use notification. Persons submitting a SNUN must comply with the same notice requirements and EPA regulatory procedures as submitters of PMNs, as stated in 40 CFR 721.1(c), including submission of test data on health and environmental effects as described in 40 CFR 720.50.

EPA is not publishing SNURs for PMNs P–95–266, 95–615/616, P–95–941, P–95–973, P–95–1046, P–95–1115, P–95–1827, P–95–1854, P–95–2075, P–96–262, P–96–291, P–96–317, P–96–576 through P–96–581, P–96–726 through P–96–744, P–96–803/804, P–96–1277/78, P–96–1482/1483, P–96–1708, P–96–1509/1519, P–96–1548 through P–96–1551, P–97–205 through P–97–208, and P–97–276/277 which are subject to a final TSCA section 5(e) consent order. The TSCA section 5(e) consent orders for these substances are derived from an exposure finding based solely on substantial production volume and significant or substantial human exposure and/or release to the environment of substantial quantities. For these cases there were limited or no toxicity data available for the PMN substances. In such cases, EPA regulates the new chemical substances under TSCA section 5(e) by requiring certain toxicity tests. For instance, chemical substances with potentially substantial releases to surface waters would be subject to toxicity testing of aquatic organisms and chemicals with potentially substantial human exposures would be subject to health effects testing for mutagenicity, acute effects, and subchronic effects. However, for these substances, the short-term toxicity testing required by the TSCA section 5(e) order is usually completed within 1 to 2 years of notice of commencement (NOC). EPA's experience with exposure-based SNURs requiring short-term testing is that the SNUR is often revoked within 1 to 2 years when the test results are received. Rather than issue and revoke SNURs in such a short span of time, EPA will defer publication of exposure-based SNURs until either a NOC or data demonstrating risk are received unless the toxicity testing required is long-term. EPA is issuing this explanation and notification as required in 40 CFR 721.160(a)(2) as it has determined that SNURs are not needed at this time for these substances which are subject to a final TSCA section 5(e) consent order under TSCA.

PMN Number P–87–323

Chemical name: (generic) Poly(oxy-1,2-ethanediyl), alpha substituted-omega-hydroxy-, C_{16-20} alkyl ethers.
CAS number: Not available.
Basis for action: The PMN substance will be used as an intermediate. Based on submitted fish, daphnia, and algae tests on the PMN substance, EPA expects toxicity to aquatic organisms at surface water concentrations as low as 20 parts per billion (ppb). EPA determined that use of the substance as described in the PMN did not present an unreasonable risk because the substance did not exceed a concentration of 20 ppb when released to surface waters. EPA has determined that other uses may result in releases to surface waters above 20 ppb. Based on this information the PMN substance meets the concern criteria at § 721.170(b)(4)(i).
Recommended testing: EPA has determined that a chronic 60-day fish early life stage toxicity test in rainbow trout (40 CFR 797.1600 or OPPTS 850.1400 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)) and a 21-day daphnid chronic toxicity test (40 CFR 797.1330 or OPPTS 850.1300 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)) would help characterize the environmental effects of the PMN substance.
CFR citation: 40 CFR 721.3488.

PMN Number P–88–1108

Chemical name: (generic) Alcohols, C_{6-12}, ethoxylated, reaction product with maleic anhydride.
CAS number: Not available.
Basis for action: The PMN substance will be used as a plastics additive. Based on analogy to anionic surfactants, EPA is concerned that toxicity to aquatic organisms may occur at a concentration as low as 300 ppb of the PMN substance in surface waters. EPA determined that use of the substance as described in the PMN did not present an unreasonable risk because the substance would not be released to surface waters in significant quantities. EPA has determined that other uses of the substance may result in releases to surface waters which exceed the concern concentration. Based on this information the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).
Recommended testing: EPA has determined that a fish acute toxicity study (40 CFR 797.1400 or OPPTS 850.1075 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), a daphnid acute toxicity study (40 CFR 797.1300 or OPPTS 850.1010 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), and an algal acute toxicity study (40 CFR 797.1050 or OPPTS 850.5400 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)) would help characterize the environmental effects of the PMN substance.
CFR citation: 40 CFR 721.524.

PMN Number P–90–581

Chemical name: (generic) Brominated phthalate ester.
CAS number: Not available.
Effective date of section 5(e) consent order: March 21, 1996.
Basis for section 5(e) consent order: The order was issued under section 5 (e)(1)(A)(i) and (e)(1)(A)(ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health and the environment.
Toxicity concern: Similar chemicals have been shown to form dibenzodioxins and dibenzofurans when incinerated under combustion conditions of municipal incinerators.

Recommended testing: An incineration simulation study is required to help characterize the potential for the formation of dibenzodioxins or dibenzofurans when plastics or resins containing the PMN substance are incinerated. The PMN submitter has agreed not to exceed the production volume limit without performing this study.
CFR citation: 40 CFR 721.3085.

PMN Numbers P–91–1131 and P–90–564

Chemical name: (generic) Imidazolethione.
CAS number: Not available.
Effective date of section 5(e) consent order: October 25, 1995.
Basis for section 5(e) consent order: The order was issued under section 5 (e)(1)(A)(i) and (e)(1)(A)(ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to human health.
Toxicity concern: Based on the submitted 90-day subchronic study, the PMN substance causes thyroid and other systemic effects in test animals. Based on the submitted developmental toxicity study, the PMN substance causes developmental toxicity in test animals. Based on analogy to structurally similar substances the PMN substance may cause thyroid cancer.
Recommended testing: A 2-year, two-species oral bioassay in rats (40 CFR 799.9420) (62 FR 43838, August 15, 1997) (FRL–5719–5) is recommended to help characterize the human health effects of the PMN substance.
CFR citation: 40 CFR 721.4469.

PMN Number P–92–314

Chemical name: (generic) Aryloxyarene.
CAS number: Not available.
Effective date of section 5(e) consent order: March 11, 1996.
Basis for section 5(e) consent order: The order was issued under section 5 (e)(1)(A)(i) and (e)(1)(A)(ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to the environment.
Toxicity concern: Based on test data on this substance, there is concern for toxicity to aquatic organisms, particularly effects on daphnid reproduction, at concentrations as low as 1 ppb in surface waters.
Recommended testing: A 28-day chironomid sediment toxicity study (OPPTS 850.1790 test guideline (public draft; 61 FR 16486, April 15, 1996)) (FRL–5363–1) is recommended to help characterize the toxicity of the PMN substance to benthic organisms.
CFR citation: 40 CFR 721.977.

PMN Numbers P–93–204 and P–94–1870 through P–94–1874

Chemical name: (generic) Phenyl substituted triazolinones.
CAS numbers: Not available.
Effective date of section 5(e) consent order: July 23, 1996.
Basis for section 5(e) consent order: The order was issued under section 5 (e)(1)(A)(i) and (e)(1)(A)(ii)(I) of TSCA based on a finding that these substances may present an unreasonable risk of injury to human health and the environment.
Toxicity concern: Data on several of the PMN substances and a chemical similar to P–94–1870 have shown developmental and reproductive effects, blood and liver effects, and neurotoxicity in test animals.
Recommended testing: An oral developmental toxicity study in rats (40 CFR 799.9370) (62 FR 43832, August 15, 1997) (FRL–5719–5) and a 90-day subchronic oral study in rats (40 CFR 798.2650 or OPPTS 870.3100 test guideline (public draft; 61 FR 31522, June 20, 1996) (FRL–5367–7)) would help characterize the human health effects. A semi-continuous activated sludge (SCAS) study (OPPTS 835.3210 test guideline (public draft; 61 FR 16486, April 15, 1996)) (FRL–5363–1), a ready biodegradability study (OPPTS 835.3110 test guideline (public draft; 61 FR 16486, April 15, 1996)) (FRL–5363–1), and a soil sediment adsorption isotherm (40 CFR 796.2750 or OPPTS 835.1220 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1) would help characterize the environmental effects of the substance.
CFR citation: 40 CFR 721.9825.

PMN Number P–93–568

Chemical name: (generic) Polysubstituted piperidine.
CAS number: Not available.
Basis for action: The PMN substance will be used as an intermediate. Based on submitted test data, EPA is concerned that toxicity to aquatic organisms may occur at a concentration as low as 30 ppb of the PMN substance in surface waters. EPA determined that use of the substance as described in the PMN did not present an unreasonable risk because the substance would not be released to surface waters above a level of 30 ppb. EPA has determined that other uses of the substance may result in releases to surface waters which exceed the concern concentration. Based on this information the PMN substance meets the concern criteria at § 721.170(b)(4)(i).
Recommended testing: EPA has determined that a chronic 60-day fish early life stage toxicity test in rainbow trout (40 CFR 797.1600 or OPPTS 850.1400 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)) and a 21-day daphnid chronic toxicity test (40 CFR 797.1330 or OPPTS 850.1300 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)) would help characterize the environmental effects of the PMN substance.
CFR citation: 40 CFR 721.6165.

PMN Number P–93–761

Chemical name: 2-Pyrrolidinone, 1,1′-(2-methyl-1,5-pentanediyl)bis-.
CAS number: 146453–62–5.
Effective date of section 5(e) consent order: September 6, 1995.
Basis for section 5(e) consent order: The order was issued under section 5 (e)(1)(A)(i) and (e)(1)(A)(ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to human health.
Toxicity concern: Test data on the PMN substance and similar chemicals have shown that these types of chemicals cause systemic toxicity and neurotoxicity in test animals.
Recommended testing: A 90-day oral subchronic study in rats (40 CFR 798.2650 or OPPTS 870.3100 test guideline (public draft; 61 FR 31522, June 20, 1996) (FRL–5367–7)) with additional neurotoxicity endpoints following NTIS–PB91–154617 (functional observation battery, neurohistopathology and motor activity) would help to characterize the systemic and neurotoxicity effects. The PMN submitter has agreed not to exceed the production volume limit without performing this test.
CFR citation: 40 CFR 721.9005.

PMN Number P–93–1369

Chemical name: (generic) *N,N′*-di(alkyl heteromonocycle)amino chlorotriazine.
CAS number: Not available.
Effective date of section 5(e) consent order: June 13, 1995.
Basis for section 5(e) consent order: The order was issued under section 5 (e)(1)(A)(i) and (e)(1)(A)(ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health and the environment.
Toxicity concern: Similar chemicals have been shown to cause systemic toxicity, developmental toxicity, and cancer in test animals. In addition, similar chemicals have been shown to be toxic to aquatic organisms.
Recommended testing: EPA has determined that a 90-day subchronic toxicity test in rats via gavage (40 CFR 798.2650 or OPPTS 870.3100 test guideline (public draft; 61 FR 31522,

June 20, 1996) (FRL–5367–7)), a two-species developmental study (rodent and non-rodent) (40 CFR 799.9370) (62 FR 43832, August 15, 1997) (FRL–5719–5) and a 2-year, one-species bioassay (rats) (40 CFR 799.9420) (62 FR 43838, August 15, 1997) (FRL–5719–5) would help characterize the human health effects of the PMN substance. The 90-day subchronic toxicity test should include special emphasis on hematology; weight of the spleen and thymus; cellularity of the bone marrow, thymus, and spleen; and histopathology of the liver, kidney, heart, and all endocrine glands for which weight changes are observed. In addition natural killer cell activity should be evaluated on the same population of test animals, and IgM antibody plaque-forming cells should be enumerated in two satellite groups of animals (10 in the high-dose group and 10 in the control group). EPA has determined that a fish acute toxicity study (40 CFR 797.1400 or OPPTS 850.1075 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), a daphnid acute toxicity study (40 CFR 797.1300 or OPPTS 850.1010 (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), and an algal acute toxicity study (40 CFR 797.1050 or OPPTS 850.5400 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)) would help characterize the environmental effects of the PMN substance. The consent order contains two production volume limits. The PMN submitter has agreed not to exceed the first production volume limit without performing the 90-day subchronic toxicity test. The PMN submitter has also agreed not to exceed the second higher production volume limit without performing the two-species developmental study and the 2-year, one-species bioassay if the results of the 90-day test indicate biological activity at low levels (i.e., activity levels comparable to those for triazines).
CFR citation: 40 CFR 721.2094.

PMN Number P–93–1631

Chemical name: (generic) Substituted naphtholazo-substituted naphthalenyl-substituted azonaphthol chromium complex.
CAS number: Not available.
Basis for action: The PMN substance will be used as a dye. Based on analogy to structurally similar substances, EPA is concerned that cancer will occur in exposed workers. Based on submitted test data, EPA is concerned that toxicity to aquatic organisms may occur at a concentration as low as 1 ppb of the PMN substance in surface waters. EPA determined that use of the substance did not present an unreasonable risk because significant worker or environmental exposure is not expected because the substance was used as a liquid and was not manufactured domestically. EPA has determined that domestic manufacture of the substance and use as a solid may result in significant worker or environmental exposure. Based on this information the PMN substance meets the concern criteria at § 721.170 (b)(4)(i) and (b)(1)(i)(D).
Recommended testing: EPA has determined that a 2-year, two-species oral bioassay (40 CFR 799.9420) (62 FR 43838, August 15, 1997) (FRL–5719–5) would help characterize the health effects of the PMN substance and a chronic 60-day fish early life stage toxicity test in rainbow trout (40 CFR 797.1600 or OPPTS 850.1400 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)) and a 21-day daphnid chronic toxicity test (40 CFR 797.1330 or OPPTS 850.1300 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)) would help characterize the environmental effects of the PMN substance.
CFR citation: 40 CFR 721.981.

PMN Number P–93–1654

Chemical name: (generic) Substituted polyoxyethylene.
CAS number: Not available.
Basis for action: The PMN substance will be used as an emulsifier for paint and adhesives. Based on submitted test data and analogy to nonionic surfactants, EPA is concerned that toxicity to aquatic organisms may occur at a concentration as low as 9 ppb of the PMN substance in surface waters. EPA determined that use of the substance as described in the PMN did not present an unreasonable risk because the substance would not be released to surface waters. EPA has determined that other uses of the substance may result in releases to surface water at concentrations above 9 ppb. Based on this information the PMN substance meets the concern criteria at § 721.170(b)(4)(i).
Recommended testing: EPA has determined that a fish acute toxicity study (40 CFR 797.1400 or OPPTS 850.1075 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), a daphnid acute toxicity study (40 CFR 797.1300 or OPPTS 850.1010 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), and an algal acute toxicity study (40 CFR 797.1050 or OPPTS 850.5400 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)) would help characterize the environmental effects of the PMN substances.
CFR citation: 40 CFR 721.7378.

PMN Number P–94–209

Chemical name: Phenol, 2,4-dimethyl-6-(1-methylpentadecyl)-.
CAS number: 134701–20–5.
Basis for action: The PMN substance will be used as an antioxidant. Based on submitted test data, there is concern for liver toxicity, kidney toxicity, adrenal toxicity, and blood toxicity. Based on submitted test data and analogy to phenols, EPA is also concerned that toxicity to aquatic organisms will occur at concentrations as low as 1 ppb. EPA determined that use of the substance as described in the PMN did not present an unreasonable risk because workers would not be subject to significant dermal exposures and there were no significant environmental releases. EPA has determined that other uses of the substance may result in significant dermal exposures to workers and significant environmental releases. Based on this information the PMN substance meet the concern criteria at § 721.170 (b)(3)(i) and (b)(4)(i).
Recommended testing: EPA has determined that a dermal absorption study, a 90-day subchronic oral study in rats (40 CFR 798.2650 or OPPTS 870.3100 test guideline (public draft; 61 FR 31522, June 20, 1996) (FRL–5367–7)), a chronic 60-day fish early life stage toxicity test in rainbow trout (40 CFR 797.1600 or OPPTS 850.1400 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), and a 21-day daphnid chronic toxicity test (40 CFR 797.1330 or OPPTS 850.1300 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)) would help characterize the health and environmental effects of the PMN substance.
CFR citation: 40 CFR 721.5725.

PMN Number P–94–921

Chemical name: Phenol, 4,4′-methylenebis[2,6-dimethyl-.
CAS number: 5384–21–4.
Effective date of section 5(e) consent order: July 5, 1995.
Basis for section 5(e) consent order: The order was issued under section 5 (e)(1)(A)(i) and (e)(1)(A)(ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health and the environment.
Toxicity concern: Similar phenols have been shown to cause kidney and liver toxicity, and blood effects in test animals. In addition, chronic fish and daphnid tests and a high bioconcentration potential indicated a concern concentration of 6 ppb.
Recommended testing: EPA has determined that a 90-day subchronic

oral toxicity test in rats (40 CFR 798.2650 or OPPTS 870.3100 test guideline (public draft; 61 FR 31522, June 20, 1996) (FRL–5367–7)) would help to characterize the human health effects of the PMN substance. EPA has also determined that a modified SCAS test (OPPTS 835.3210 test guideline (public draft; 61 FR 16486, April 15, 1996)) (FRL–5363–1), an aerobic aquatic biodegradation test (40 CFR 796.3100 or OPPTS 835.3100 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1), and an anaerobic biodegradability of organic chemicals (OPPTS 835.3400 test guideline (public draft; 61 FR 16486, April 15, 1996)) (FRL–5363–1) would help to charactarize the environmental effects. The PMN submitter has agreed not to exceed the production volume limit without performing the 90-day subchronic toxicity test.
CFR citation: 40 CFR 721.5730.

PMN Number P–94–1017

Chemical name: Urea, tetraethyl-.
CAS number: 1187–03–7.
Basis for action: The PMN substance will be used as an intermediate. Based on submitted test data EPA is concerned that toxicity to aquatic organisms may occur at a concentration as low as 1 ppm of the PMN substance in surface waters. Based on analogy to similar ureas and submitted test data EPA is concerned that acute toxicity, mutagenicity, developmental effects, and reproductive effects could occur to exposed workers. EPA determined that use of the substance as described in the PMN did not present an unreasonable risk because the substance would not be released to surface waters and exposed workers would wear adequate protective equipment to prevent dermal exposure. EPA has determined that other uses of the substance may result in releases to surface waters which exceed the concern concentration or dermal exposure to workers. Based on this information the PMN substance meets the concern criteria at § 721.170 (b)(2), (b)(3)(ii), and (b)(4)(i).
Recommended testing: EPA has determined that a chronic 60-day fish early life stage toxicity test in rainbow trout (40 CFR 797.1600 or OPPTS 850.1400 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)) and a 21-day daphnid chronic toxicity test (40 CFR 797.1330 or OPPTS 850.1300 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)) would help characterize the environmental effects of the PMN substance. EPA has determined that a dermal developmental toxicity test in rabbits and rats (40 CFR 799.9370) (62 FR 43832, August 15, 1997) (FRL–5719–5) and a chromosome aberration assay in mice (40 CFR 798.9538) (62 FR 43850, August 15, 1997) (FRL–5719–5) or a micronucleus assay in mice (40 CFR 798.9539) (62 FR 43853, August 15, 1997) (FRL–5719–5) would help characterize the health effects of the PMN substance. The PMN submitter has agreed to conduct the health tests before reaching the production volume limit in the SNUR.
CFR citation: 40 CFR 721.9928.

PMN Number P–94–1018

Chemical name: Guanidine, pentaethyl-.
CAS number: 13439–89–9.
Basis for action: The PMN substance will be used as an intermediate. Based on submitted test data, EPA is concerned that acute toxicity, corrosivity, and neurotoxicity could occur to exposed workers. EPA determined that use of the substance as described in the PMN did not present an unreasonable risk because exposed workers would wear adequate protective equipment to prevent dermal exposure. EPA has determined that other uses of the substance may result in exposure to workers. Based on this information the PMN substance meets the concern criteria at § 721.170 (b)(2) and (b)(3)(i).
Recommended testing: None.
CFR citation: 40 CFR 721.4085.

PMN Number P–94–1019

Chemical name: Ethanaminium, N-[bis(diethylamino)-methylene]-*N*-ethyl-, bromide.
CAS number: 89610–32–2.
Basis for action: The PMN substance will be used as a catalyst. Based on submitted test data, EPA is concerned that toxicity to aquatic organisms may occur at a concentration as low as 10 ppb of the PMN substance in surface waters. EPA determined that use of the substance as described in the PMN did not present an unreasonable risk because the substance would not be released to surface waters. EPA has determined that other uses of the substance may result in releases to surface waters which exceed the concern concentration. Based on this information the PMN substance meets the concern criteria at § 721.170(b)(4)(i).
Recommended testing: EPA has determined that a chronic 60-day fish early life stage toxicity test in rainbow trout (40 CFR 797.1600 or OPPTS 850.1400 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)) and a 21-day daphnid chronic toxicity test (40 CFR 797.1330 or OPPTS 850.1300 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)) would help characterize the environmental effects of the PMN substance.
CFR citation: 40 CFR 721.4090.

PMN Number P–94–1143

Chemical name: Butanoic acid, antimony (3+) salt.
CAS number: 53856–17–0.
Effective date of section 5(e) consent order: July 7, 1995.
Basis for section 5(e) consent order: The order was issued under section 5 (e)(1)(A)(i) and (e)(1)(A)(ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health.
Toxicity concern: Similar chemicals have been shown to cause cancer, dermal and ocular irritation, cardiovascular effects, neurotoxic effects, reproductive toxicity, and developmental toxicity in test animals.
Recommended testing: A pharmacokinetic test (OPPTS 870.8223 test guideline (public draft; 61 FR 31522, June 20, 1996) (FRL–5367–7)) is recommended to help determine the bioavailability of the PMN substance after dermal administration. The PMN submitter has agreed not to exceed the production volume limit without performing this test.
CFR citation: 40 CFR 721.1930.

PMN Number P–94–1743

Chemical name: (generic) Isophorone diisocyanate neopentyl glycol adipate polyurethane prepolymer.
CAS number: Not available.
Effective date of section 5(e) consent order: December 8, 1995.
Basis for section 5(e) consent order: The order was issued under section 5 (e)(1)(A)(i) and (e)(1)(A)(ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to human health.
Toxicity concern: Test data on the substance and similar diisocyanates have shown them to cause skin sensitization and chronic lung toxicity in test animals.
Recommended testing: EPA has determined that the results of an acute inhalation study (OPPTS 870.1300 test guideline (public draft; 61 FR 31522, June 20, 1996) (FRL–5367–7)), a 28-day subchronic inhalation study in rats, (Organization for Economic Cooperation and Development (OECD) guideline no. 412), and a 90-day subchronic inhalation toxicity study in rats (40 CFR 798.2450 or OPPT 870.3465 test guideline (public draft; 61 FR 31522, June 20, 1996) (FRL–5367–7)) would help to characterize the health effects caused by the substance. The PMN submitter has agreed not to exceed the

production volume limit without performing these tests.
CFR citation: 40 CFR 721.8079.

PMN Number P–94–2159

Chemical name: (generic) Anthraquinone dye.
CAS number: Not available.
Basis for action: The PMN substance will be used as described in the PMN. Based on submitted test data and analogy to aliphatic amines EPA is concerned that toxicity to aquatic organisms may occur at a concentration as low as 2 ppb of the PMN substance in surface waters. EPA determined that use of the substance as described in the PMN did not present an unreasonable risk because the substance would not be released to surface waters. EPA has determined that other uses of the substance may result in releases to surface waters which exceed the concern concentration. Based on this information the PMN substance meets the concern criteria at § 721.170 (b)(4)(i).
Recommended testing: EPA has determined that a fish acute toxicity study modified with humic acid (40 CFR 797.1400 or OPPTS 850.1085 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)) would help characterize the environmental effects of the PMN substance.
CFR citation: 40 CFR 721.723.

PMN Number P–95–168

Chemical name: Phosphonic acid, methylenebis-, tetrakis(1-methylethyl) ester.
CAS number: 1660–95–3.
Effective date of section 5(e) consent order: September 20, 1995.
Basis for section 5(e) consent order: The Order was issued under section 5 (e)(1)(A)(i) and (e)(1)(A)(ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to human health.
Toxicity concern: Similar dimethyl methyl phosphonate (DMMP) and diisopropyl methylphosphonate (DIMP) chemical substances have been shown to cause oncogenicity in test animals. In addition the PMN substance was demonstrated to be a chromosome mutagen in a mouse lymphoma study.
Recommended testing: The Agency has determined that the results of a 2-year bioassay (40 CFR 799.9420) (62 FR 43838, August 15, 1997) (FRL–5719–5) would help to characterize possible human effects of the substance.
CFR citation: 40 CFR 721.6075.

PMN Number P–95–243

Chemical name: Phenol, 4-(1,1-dimethylethyl)-, homopolymer.
CAS number: 30813–81–1.
Effective date of section 5(e) consent order: October 5, 1995.
Basis for section 5(e) consent order: The order was issued under section 5 (e)(1)(A)(i) and (e)(1)(A)(ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to the aquatic environment.
Toxicity concern: The PMN substance has been shown to be toxic to aquatic organisms. However, the substance also has the advantages of eliminating or reducing volatile organic solvents, and reducing exposures to residual monomers. EPA has evaluated two processor/use sites where releases sometimes exceed the concern level. In light of the benefits of the substance, EPA determined these releases did not constitute an unreasonable risk and will allow releases at these sites in the section 5(e) consent order and SNUR.
Recommended testing: EPA has determined that an activated sludge adsorption isotherm study (OPPTS 835.1110 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1), a chronic 60-day fish early life stage toxicity test in rainbow trout (40 CFR 797.1600 or OPPTS 850.1400 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), a 21-day daphnid chronic toxicity test (40 CFR 797.1330 or OPPTS 850.1300 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), or a chironomid sediment toxicity test (OPPTS 850.1790 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)) would help characterize possible effects of the PMN substance in the aquatic environment. The consent order contains two production limits. The PMN submitter has agreed not to exceed the first production limit without performing the activated sludge adsorption isotherm test. The PMN submitter has also agreed not to exceed the second higher production limit without performing either the fish early life stage with rainbow trout and the daphnid chronic toxicity tests, or the chironomid sediment toxicity test, depending on the results of the activated sludge adsorption isotherm test.
CFR citation: 40 CFR 721.538.

PMN Number P–95–535

Chemical name: Reaction products of formalin (37%) with amine C_{12}.
CAS number: Not available.
Basis for action: The PMN substance will be used as an oilfield chemical. Based on analogy to aliphatic amines, EPA is concerned that toxicity to aquatic organisms may occur at a concentration as low as 20 ppb of the PMN substance in surface waters. EPA determined that use of the substance as described in the PMN did not present an unreasonable risk because the substance would not be released to surface waters. EPA has determined that other uses of the substance may result in releases to surface waters which exceed the concern concentration. Based on this information the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).
Recommended testing: EPA has determined that a fish acute toxicity study (40 CFR 797.1400 or OPPTS 850.1075 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), a daphnid acute toxicity study (40 CFR 797.1300 or OPPTS 850.1010 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), and an algal acute toxicity study (40 CFR 797.1050 or OPPTS 850.5400 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)) would help characterize the environmental effects of the PMN substance.
CFR citation: 40 CFR 721.9285.

PMN Numbers P–95–605/606

Chemical name: (generic) Trifunctional ketoximino silane.
CAS number: Not available.
Basis for action: The PMN substance will be used as described in the PMN. Based on analogy of the hydrolysis product of the PMN substances to similar compounds, EPA is concerned that cancer and blood effects could occur to exposed workers. EPA determined that use of the substances as described in the PMN did not present an unreasonable risk because exposed workers would wear adequate protective equipment to prevent dermal exposure. EPA has determined that other uses of the substance may result in dermal exposure to workers. Based on this information the PMN substance meets the concern criteria at § 721.170 (b)(1)(i)(D) and (b)(3)(iii).
Recommended testing: EPA has determined that a 90-day subchronic study in rats by the oral route (40 CFR 798.2650 or OPPTS 870.3100 test guideline (public draft; 61 FR 31522, June 20, 1996) (FRL–5367–7)) and a 2-year, two-species bioassay (40 CFR 799.9420) (62 FR 43838, August 15, 1997) (FRL–5719–5) would help characterize the health effects of the PMN substance.
CFR citation: 40 CFR 721.9497.

PMN Number P–95–633

Chemical name: (generic) Sodium salt of azo acid dye.
CAS number: Not available.
Basis for action: The PMN substance will be used in a non-dispersive use.

Based on analogy of the azo reduction products to structurally similar substances, EPA is concerned that cancer and systemic toxicity will occur in exposed workers. EPA determined that use of the substance did not present an unreasonable risk because significant worker exposure is not expected because the substance was not manufactured, processed, or used as a powder. EPA has determined that manufacture, processing, and use of the substance as a powder may result in significant worker exposure. Based on this information the PMN substance meets the concern criteria at § 721.170 (b)(1)(i)(D) and (b)(3)(iii).
Recommended testing: EPA has determined that a 90-day subchronic study in rats by the oral route with special attention to the liver, kidney, spleen, and blood (40 CFR 798.2650 or OPPTS 870.3100 test guideline (public draft; 61 FR 31522, June 20, 1996) (FRL–5367–7)) would help characterize the health effects of the substance.
CFR citation: 40 CFR 721.980.

PMN Number P–95–637

Chemical name: 2-Pentene, 1,1,1,2,3,4,4,5,5,5-decafluoro-.
CAS number: 72804–49–0.
Basis for action: The PMN substance will be used as an intermediate. Based on toxicity data submitted with the PMN, EPA identified health concerns for neurotoxicity. EPA determined that use of the substance as described in the PMN did not present an unreasonable risk because significant human exposure is not expected. EPA has determined that use of the substance other than as described in the PMN may result in significant human exposure. Based on this information the PMN substance meets the concern criteria at § 721.170 (b)(3)(i).
Recommended testing: None.
CFR citation: 40 CFR 721.5708.

PMN Number P–95–638

Chemical name: Pentane 1,1,1,2,2,3,4,5,5,5,-decafluoro.
CAS number: 138495–42–8.
Basis for action: The PMN substance will be used as described in the PMN. Based on toxicity data submitted with the PMN, EPA identified health concerns for neurotoxicity. EPA determined that use of the substance as described in the PMN did not present an unreasonable risk because significant human exposure is not expected. EPA has determined that use of the substance other than as described in the PMN may result in significant human exposure. Based on this information the PMN substance meets the concern criteria at § 721.170(b)(3)(i).
Recommended testing: None.
CFR citation: 40 CFR 721.5645.

PMN Number P–95–666

Chemical name: (generic) Polyether acrylate.
CAS number: Not available.
Basis for action: The PMN substance will be used in a radiation curing formulation. Based on analogy to acrylates, EPA identified concerns for toxicity to aquatic organisms. EPA determined that use of the substance as described in the PMN did not present an unreasonable risk because significant environmental exposure is not expected. EPA has determined that other uses may result in releases to water which are significant environmental exposures. Based on this information the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).
Recommended testing: EPA has determined that a fish acute toxicity study (40 CFR 797.1400 or OPPTS 850.1075 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), a daphnid acute toxicity study (40 CFR 797.1300 or OPPTS 850.1010 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), and an algal acute toxicity study (40 CFR 797.1050 or OPPTS 850.5400 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)) would help characterize the environmental effects of the PMN substance.
CFR citation: 40 CFR 721.405.

PMN Numbers P–95–677/724

Chemical name: (generic) Antimony double oxide.
CAS number: Not available.
Effective date of section 5(e) consent order: March 12, 1996.
Basis for section 5(e) consent order: The order was issued under section 5 (e)(1)(A)(i) and (e)(1)(A)(ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to human health and the environment.
Toxicity concern: Similar chemicals have been shown to cause cancer, lung toxicity and ocular effects in test animals. In addition to human health concerns, an aquatic toxicity concern has been identified if the substance is released to surface waters. A concern concentration of 5 ppb has been established.
Recommended testing: EPA has determined that a 2-year, one-species rat inhalation bioassay, which has an additional holding period, analyses of lung burdens, and determination of clearance rates of particles (as described at (40 CFR 799.9420) (62 FR 43838, August 15, 1997) (FRL–5719–5) would help characterize the carcinogenicity, lung toxicity and ocular effects of the PMN substance. In addition, EPA has determined that a fish acute toxicity study (40 CFR 797.1400 or OPPTS 850.1075 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), a daphnid acute toxicity study (40 CFR 797.1300 or OPPTS 850.1010 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), and an algal acute toxicity study (40 CFR 797.1050 or OPPTS 850.5400 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)) would help characterize the environmental effects of the PMN substances.
CFR citation: 40 CFR 721.5547.

PMN Numbers P–95–1103, P–95–1104, and P–96–1235

Chemical name: (generic) Substituted resorcinols.
CAS number: Not available.
Basis for action: The PMN substances will be used as components of a material for integrated circuit fabrication. Based on submitted toxicity data and analogy to phenols, EPA is concerned that toxicity to aquatic organisms may occur at a concentration as low as 9 ppb of P–95–1103/P–95–1104 and 1 ppb of P–96–1235 in surface waters. EPA determined that use of the substances as described in the PMNs did not present an unreasonable risk because the substances would not be released to surface waters in significant quantities. EPA has determined that other uses of the substances may result in releases to surface waters which exceed the concern concentration. Based on this information the PMN substances meet the concern criteria at § 721.170(b)(4)(i) and (b)(4)(ii).
Recommended testing: EPA has determined that a chronic 60-day fish early life stage toxicity test in rainbow trout (40 CFR 797.1600 or OPPTS 850.1400 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)) and a 21-day daphnid chronic toxicity test (40 CFR 797.1330 or OPPTS 850.1300 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)) would help characterize the environmental effects of P–95–1103 and P–95–1104. EPA has also determined that a fish acute toxicity study (40 CFR 797.1400 or OPPTS 850.1075 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), a daphnid acute toxicity study (40 CFR 797.1300 or OPPTS 850.1010 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), and an algal acute toxicity study (40 CFR 797.1050 or OPPTS 850.5400 test guideline (public draft; 61 FR 16486,

April 15, 1996) (FRL–5363–1)) would help characterize the environmental effects of P–96–1235.

CFR citation: 40 CFR 721.9488.

PMN Number P–95–1128

Chemical name: (generic) Brominated aromatic ester.

CAS number: Not available.

Effective date of section 5(e) consent order: November 5, 1996.

Basis for section 5(e) consent order: The order was issued under section 5 (e)(1)(A)(i) and 5(e)(1)(ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to human health and the environment.

Toxicity concern: Similar chemicals have been shown to: (1) Degrade in the environment resulting in substances that may cause aquatic toxicity, and (2) form dibenzodioxins and dibenzofurans when incinerated under combustion conditions of municipal incinerators. EPA has determined that halogenated dioxins and furans are probable human carcinogens and may cause toxic effects in aquatic and terrestrial organisms.

Recommended testing: The consent order contains two production volume limits. The PMN submitter has agreed not to exceed the first production volume limit without performing an incineration simulation study (guidelines available from EPA) to help characterize the potential for the formation of dibenzodioxins or dibenzofurans when plastics or resins containing the substance are incinerated, and a porous pot test (OPPTS 835.3220 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1) to determine the extent of environmental degradation of the substance. The PMN submitter has also agreed not to exceed the second, higher production volume limit without performing a shake flask die-away test (OPPTS 835.3170 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1), a fish bioconcentration test (OPPTS 850.1730 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), a fish acute toxicity study (40 CFR 797.1400 or OPPTS 850.1075 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), a daphnid acute toxicity study (40 CFR 797.1300 or OPPTS 850.1010 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), and an algal acute toxicity study (40 CFR 797.1050 or OPPTS 850.5400 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)).

CFR citation: 40 CFR 721.2925.

PMN Number P–95–1213

Chemical name: (generic) Hydroxy terminated polyester.

CAS number: Not available.

Basis for action: The PMN substance will be used as an intermediate. Based on analogy to esters, EPA is concerned that toxicity to aquatic organisms may occur at a concentration as low as 200 ppb of the PMN substance in surface waters. EPA determined that use of the substance as described in the PMN did not present an unreasonable risk because the substance would not be released to surface waters. EPA has determined that other uses of the substance may result in releases to surface water at concentrations above 200 ppb. Based on this information the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).

Recommended testing: EPA has determined that a fish acute toxicity study (40 CFR 797.1400 or OPPTS 850.1075 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), a daphnid acute toxicity study (40 CFR 797.1300 or OPPTS 850.1010 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), and an algal acute toxicity study (40 CFR 797.1050 or OPPTS 850.5400 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)) would help characterize the environmental effects of the PMN substance.

CFR citation: 40 CFR 721.6485.

PMN Number P–95–1235

Chemical name: 2-Naphthalenesulfonic acid, 3-[[4-[(2,4-dimethyl-6-sulfophenyl)azo]-2-methoxy-5-methylphenyl]azo]-4-hydroxy-7-(phenylamino)-, sodium salt, compd. With 2,2′,2″-nitrilotris [ethanol] (9CI).

CAS number: 94213–53–3.

Basis for action: The PMN substance will be used in an open non-dispersive use. Based on analogy of the azo reduction products to similar substances, EPA is concerned that cancer, systemic toxicity, developmental toxicity, methemoglobinemia, and skin sensitization will occur in exposed workers. EPA determined that use of the substance did not present an unreasonable risk because significant worker exposure is not expected because the substance was not manufactured, processed, or used as a powder or manufactured domestically. EPA has determined that manufacture, processing, and use of the substance as a powder or domestic manufacture may result in significant worker exposure. Based on this information the PMN substance meets the concern criteria at § 721.170(b)(3)(iii).

Recommended testing: EPA has determined that an Ames assay with the Prival modification with a concurrent positive control would help characterize the health effects of the PMN substance.

CFR citation: 40 CFR 721.5281.

PMN Number P–95–1282

Chemical name: (generic) Reaction product of dichlorobenzidine and substituted alkylamide.

CAS number: Not available.

Effective date of section 5(e) consent order: July 29, 1996.

Basis for section 5(e) consent order: The order was issued under section 5 (e)(1)(A)(i) and 5(e)(1)(ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health.

Toxicity concern: 3,3′-dichlorobenzidine (DCB) and possible reduction products have been shown to cause oncogenicity and mutagenicity in test animals.

Recommended testing: The following studies would help characterize the health effects of the PMN substance: Monitoring data to detect the presence of DCB under actual conditions of use in polymer coloration or sheet metal coating use (Az, R., Dewald B. and Scnaitmann, D. 1991. Pigment Decomposition in Polymers in Applications at Elevated Temperatures (*Dyes and Pigments* 15:1–14). Monitoring data would include the following elements: Extrusion or other process), monitoring data to detect airborne concentrations of DCB during high-temperature coloration or sheet metal coating use (see TSCA section 8(e) data e.g., section 8(e)-962 supp.), radio-labeled pharmacokinetic study (oral) in rats on the pigment (with the radio-label on the DCB) (OPPTS 870.7485 test guideline (public draft; 60 FR 45158, August 30, 1995) (FRL–4973–2)) plus radio-label), and a 2-year, two-species bioassay (40 CFR 799.9420) (62 FR 43838, August 15, 1997) (FRL–5719–5).

CFR citation: 40 CFR 721.9265.

PMN Number P–95–1288

Chemical name: 2-Naphthalenol, mono and dioctyl derivs.

CAS number: Not available.

Basis for action: The PMN substance will be used as an intermediate. Based on analogy to phenols, EPA is concerned that toxicity to aquatic organisms may occur at a concentrations as low as 1 ppb of the PMN substance in surface waters. EPA determined that use of the substance as described in the PMN did not present an unreasonable risk because the substance did not exceed a concentration of 1 ppb when released to surface waters. EPA has determined that increased production

volume may result in releases to surface waters above 1 ppb. Based on this information the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).
Recommended testing: EPA has determined that a fish acute toxicity study (40 CFR 797.1400 or OPPTS 850.1075 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), a daphnid acute toxicity study (40 CFR 797.1300 or OPPTS 850.1010 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), and an algal acute toxicity study (40 CFR 797.1050 or OPPTS 850.5400 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)) would help characterize the environmental effects of the PMN substance.
CFR citation: 40 CFR 721.5255.

PMN Number P–95–1317

Chemical name: (generic) Hydrochlorofluorocarbon.
CAS number: Not available.
Basis for action: The PMN substance will be used as an intermediate. Based on toxicity data submitted with the PMN, EPA identified health concerns for neurotoxicity. Based on analogy to structurally similar chemicals, EPA identified health concerns for cardiac sensitization, liver toxicity, kidney toxicity, and skin irritation. EPA determined that use of the substance as described in the PMN did not present an unreasonable risk because significant human exposure is not expected. EPA has determined that use of the substance other than as described in the PMN may result in significant human exposure. Based on this information the PMN substance meets the concern criteria at § 721.170 (b)(3)(i) and (b)(3)(ii).
Recommended testing: None.
CFR citation: 40 CFR 721.4462.

PMN Number P–95–1326

Chemical name: 3,8-Dioxa-4,7-disiladecane, 4,4,7,7-tetraethoxy-.
CAS number: 16068–37–4.
Basis for action: The PMN substance will be used in treatment of laminates for printed circuit boards and sol-gel ceramics. Based on analogy to alkoxysilanes, EPA is concerned that a significant risk of lung toxicity and severe irritation to skin, eyes, and mucous membranes could occur. EPA determined that use of the substance did not present an unreasonable risk because the substance would not be manufactured, processed, or used in a manner that generated a vapor, mist, or aerosol and significant worker inhalation exposure is not expected. EPA has determined that manufacture, processing, or use of the substance in a manner that generated a vapor, mist, or aerosol may result in significant worker inhalation exposure. Based on this information the PMN substance meets the concern criteria at § 721.170(b)(3)(ii).
Recommended testing: EPA has determined that a 90-day subchronic inhalation study in rats (40 CFR 798.2450 or OPPTS 870.3465 test guideline (public draft; 61 FR 31522, June 20, 1996) (FRL–5367–7)) would help characterize the health effects of the PMN substance.
CFR citation: 40 CFR 721.3155.

PMN Number P–95–1347

Chemical name: (generic) Aliphatic polyisocyanate.
CAS number: Not available.
Basis for action: The PMN substance will be used in an open non-dispersive use. Based on analogy to diisocyanates, there is concern for lung toxicity, pulmonary sensitization, and irritation to mucous membranes. EPA determined that use of the substance as described in the PMN did not present an unreasonable risk because workers would not be subject to significant inhalation exposures. EPA has determined that uses of the substance that generate a mist, aerosol, or vapor may result in significant inhalation exposures to workers. Based on this information the PMN substance meet the concern criteria at § 721.170(b)(3)(ii).
Recommended testing: EPA has also determined that a 90-day subchronic inhalation study in rats (40 CFR 799.9346) (62 FR 43828, August 15, 1997) (FRL–5719–5) would help characterize the health effects of the PMN substance.
CFR citation: 40 CFR 721.6495.

PMN Number P–95–1356

Chemical name: (generic) Silylated polyurethane.
CAS Number: Not available.
Basis for action: The PMN substance will be used as a moisture curable polymer. Based on analogy of the PMN substance to alkoxysilanes, EPA expects irritation to mucous membranes and lung toxicity. EPA determined that use of the substance as described in the PMN did not present an unreasonable risk because there were no significant inhalation exposures. EPA has determined that use of the substance generating an aerosol or a mist may result in significant inhalation exposures. Based on this information the PMN substance meets the concern criteria at § 721.170(b)(3)(ii).
Recommended testing: EPA has determined that a 90-day subchronic inhalation study (40 CFR 798.2450 or OPPTS 870.3465 test guideline (public draft; 61 FR 31522, June 20, 1996) (FRL–5367–7)) would help characterize the health effects of the PMN substance.
CFR citation: 40 CFR 721.8095.

PMN Number P–95–1386

Chemical name: Benzene, 1,1′-methylanebis[4-isocyanato-, homopolymer, Bu alc.-blocked.
CAS number: 186321–98–2.
Basis for action: The PMN substance will be used as described in the PMN. Based on analogy to diisocyanates, EPA is concerned that a significant risk of oncogenicity, respiratory sensitization, and chronic lung effects could occur. EPA determined that use of the substance did not present an unreasonable risk because the substance would not be manufactured, processed, or used in a manner that generated a vapor, mist, or aerosol and significant worker inhalation exposure is not expected. EPA has determined that manufacture, processing, or use of the substance in a manner that generated a vapor, mist, or aerosol may result in significant worker inhalation exposure. Based on this information the PMN substance meets the concern criteria at § 721.170 (b)(3)(ii).
Recommended testing: EPA has determined that a 90-day inhalation study in rats (40 CFR 799.9346) (62 FR 43828, August 15, 1997) (FRL–5719–5) would help characterize the health effects of the PMN substance.
CFR citation: 40 CFR 721.2535.

PMN Number P–95–1411

Chemical name: Propanedioic acid, [(4-methoxyphenyl)methylene]-, bis(1,2,2,6,6-pentamethyl-4-piperidinyl) ester (9CI).
CAS number: 147783–69–5.
Effective date of section 5(e) consent order: November 22, 1995.
Basis for section 5(e) consent order: The order was issued under section 5(e)(1)(A)(i) and 5(e)(1)(A)(ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to human health.
Toxicity concern: Similar chemicals have been shown to cause toxicity to the immune system, liver, blood, the male reproductive system and the G.I. tract in test animals.
Recommended testing: A 90-day subchronic oral toxicity study in rats (40 CFR 798.2650 or OPPTS 870.3100 test guideline (public draft; 61 FR 31522, June 20, 1996) (FRL–5367–7)) would help characterize the human health effects. The PMN submitter has agreed not to exceed the production volume limit without performing this test.

CFR citation: 40 CFR 721.4589.

PMN Number P–95–1466

Chemical name: (generic) Substituted aromatic aldehyde.
CAS number: Not available.
Basis for action: The PMN substance will be used as described in the PMN. Based on analogy to phenols and aldehydes EPA is concerned that toxicity to aquatic organisms may occur at a concentration as low as 3 ppb of the PMN substance in surface waters. EPA determined that use of the substance as described in the PMNs did not present an unreasonable risk because the substance would not be released to surface waters. EPA has determined that other uses of the substance may result in releases to surface waters which exceed the concern concentration. Based on this information the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).
Recommended testing: EPA has determined that a fish acute toxicity study (40 CFR 797.1400 or OPPTS 850.1075 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), a daphnid acute toxicity study (40 CFR 797.1300 or OPPTS 850.1010 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), and an algal acute toxicity study (40 CFR 797.1050 or OPPTS 850.5400 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)) would help characterize the environmental effects of the PMN substance.
CFR citation: 40 CFR 721.526.

PMN Number P–95–1467

Chemical name: Benzaldehyde, 2-hydroxy-5-nonyl-, oxime, branched.
CAS number: 174333–80–3.
Basis for action: The PMN substance will be used as described in the PMN. Based on analogy to phenols, EPA is concerned that toxicity to aquatic organisms may occur at a concentration as low as 1 ppb of the PMN substance in surface waters. EPA determined that use of the substance as described in the PMN did not present an unreasonable risk because the substance would not be released to surface waters. EPA has determined that other uses of the substance may result in releases to surface waters which exceed the concern concentration. Based on this information the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).
Recommended testing: EPA has determined that a fish acute toxicity study (40 CFR 797.1400 or OPPTS 850.1075 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), a daphnid acute toxicity study (40 CFR 797.1300 or OPPTS 850.1010 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), and an algal acute toxicity study (40 CFR 797.1050 or OPPTS 850.5400 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)) would help characterize the environmental effects of the PMN substance.
CFR citation: 40 CFR 721.528.

PMN Numbers P–95–1557/1558

Chemical name: (generic) Substituted imines.
CAS number: Not available.
Basis for action: The PMN substances will be used as intermediates. Based on analogy to aliphatic amines EPA is concerned that toxicity to aquatic organisms may occur at a concentration as low as 1 ppb of the PMN substances in surface waters. EPA determined that use of the substances as described in the PMNs did not present an unreasonable risk because the substances would not be released to surface waters. EPA has determined that other uses of the substances may result in releases to surface waters which exceed the concern concentration. Based on this information the PMN substances meets the concern criteria at § 721.170(b)(4)(ii).
Recommended testing: EPA has determined that a fish acute toxicity study (40 CFR 797.1400 or OPPTS 850.1075 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), a daphnid acute toxicity study (40 CFR 797.1300 or OPPTS 850.1010 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), and an algal acute toxicity study (40 CFR 797.1050 or OPPTS 850.5400 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)) would help characterize the environmental effects of the PMN substances.
CFR citation: 40 CFR 721.4476.

PMN Numbers P–95–1575/1576/1577

Chemical name: Chromate(3-), bis[3-[[5-(aminosulfonyl)-2-hydroxyphenyl]azo]-4-hydroxy-7-[[2-oxo-1-[(phenylamino)carbonyl] propyl]azo]-2-naphthalenesulfonato(3-)]-, trisodium (9CI) (P–95–1575), Chromate(3-), bis[7-[(aminohydroxyphenyl)azo]-3-[[5-(aminosulfonyl)-2-hydroxyphenyl]azo]-4-hydroxy-2-naphthalene-sulfonato (3-)]-, trisodium (9CI) (P–95–1576), Chromate(3-), bis[7-[(aminohydroxyphenyl)azo]-3-[[5-(aminosulfonyl)-2-hydroxyphenyl] azo]-4-hydroxy-2-naphthalenesulfonato (3-)]-,-[[5-(aminosulfonyl) -2-hydroxyphenyl]azo]-4-hydroxy-7-[[2-hydroxy-1-[(phenylamino) carbonyl]-1-propenyl]azo]-2-naphthalenesulfonato(3-)]-, trisodium (9CI) (P–95–1577).
CAS number: 119535–63–6 (P–95–1575), 118716–62–4 (P–95–1576), and 118716–61–3 (P–95–1577).
Basis for action: The PMN substances will be used as leather dyes. Based on analogy to similar substances, EPA is concerned that cancer, developmental, kidney, and liver toxicity will occur in exposed workers. EPA determined that use of the substances did not present an unreasonable risk because significant worker exposure is not expected because the substances were not manufactured, processed, or used as a powder. EPA has determined that manufacture, processing, and use of the substances as a powder may result in significant worker exposure. Based on this information the PMN substances meet the concern criteria at § 721.170 (b)(1)(i)(B), (b)(1)(i)(C), (b)(3)(i), and (b)(3)(ii).
Recommended testing: EPA has determined that a 2-year, two-species oral bioassay (40 CFR 799.9420) (62 FR 43838, August 15, 1997) (FRL–5719–5), an oral 2-generation reproduction study in rats (40 CFR 799.9380) (62 FR 43834, August 15, 1997) (FRL–5719–5), and a 90-day subchronic inhalation study in rats (40 CFR 798.2650 or OPPTS 870.3100 test guideline (public draft; 61 FR 31522, June 20, 1996) (FRL–5367–7)) would help characterize the health effects of the PMN substances.
CFR citation: 40 CFR 721.9575 (P–95–1575), 40 CFR 721.9576 (P–95–1576), and 40 CFR 721.9577 (P–95–1577).

PMN Number P–95–1578

Chemical name: (generic) Hydrofluorocarbon alkyl ether.
CAS number: Not available.
Basis for action: The PMN substance will be used as an intermediate. Based on analogy to similar substances, EPA identified concerns for cancer, cardiotoxicity, cardiosensitization, respiratory failure, neurotoxicity, and irritation to membranes. Based on submitted test data EPA identified concerns for acute toxicity. EPA determined that use of the substance as described in the PMN did not present an unreasonable risk because significant human exposure is not expected. EPA has determined that use of the substance without the worker protection cited in the PMN or if the substance is used other than as an intermediate may result in significant human exposure. Based on this information the PMN substance meets the concern criteria at § 721.170 (b)(1)(i)(C), (b)(3)(i), and (b)(3)(ii).
Recommended testing: EPA has determined that a 2-year, two-species bioassay (40 CFR 799.9420) (62 FR

43838, August 15, 1997) (FRL–5719–5) and a 90-day subchronic oral study in rats (40 CFR 798.2650 or OPPTS 870.3100 test guideline (public draft; 61 FR 31522, June 20, 1996) (FRL–5367–7)) will address the potential health effects of the PMN substance.
CFR citation: 40 CFR 721.3485.

PMN Numbers P–95–1650/1651/1652/1653

Chemical name: (generic) Alkyl phenyl polyetheramines.
CAS number: Not available.
Basis for action: The PMN substances will be used as intermediates. Based on analogy to aliphatic amines EPA is concerned that toxicity to aquatic organisms may occur at a concentration as low as 3 ppb of the PMN substances in surface waters. EPA determined that use of the substances as described in the PMNs did not present an unreasonable risk because the substances would not be released to surface waters. EPA has determined that other uses of the substances may result in releases to surface waters which exceed the concern concentration. Based on this information the PMN substances meets the concern criteria at § 721.170(b)(4)(ii).
Recommended testing: EPA has determined that a fish acute toxicity study (40 CFR 797.1400 or OPPTS 850.1075 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), a daphnid acute toxicity study (40 CFR 797.1300 or OPPTS 850.1010 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), and an algal acute toxicity study (40 CFR 797.1050 or OPPTS 850.5400 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)) would help characterize the environmental effects of the PMN substance.
CFR citation: 40 CFR 721.6490.

PMN Number P–95–1750

Chemical name: (generic) Pentanediol light residues.
CAS number: Not available.
Basis for action: The PMN substance will be used as a solvent. Based on potential consumer exposures, EPA has determined that the PMN substance may cause significant or substantial human exposure. EPA determined that use of the substance as described in the PMN did not cause significant or substantial exposure from use as an industrial solvent. EPA has determined that exposures from consumer use may result in significant or substantial human exposures. Based on this information activities other than those described in the PMN may result in significant changes in human exposure.
Recommended testing: EPA has determined that a 28-day oral study in rats (OECD guideline no. 407), an acute rat oral study (OPPTS 870.1100 test guideline (public draft; 61 FR 31522, June 20, 1996) (FRL–5367–7)), an ames assay (40 CFR 798.5265 or OPPTS 870.5265 test guideline (public draft; 61 FR 31522, June 20, 1996) (FRL–5367–7)), a mouse micronucleus assay by the intraperitoneal route (40 CFR 799.9539) (62 FR 43853, August 15, 1997) (FRL–5719–5), and a developmental toxicity study in one species by the oral route (40 CFR 799.9370) (62 FR 43832, August 15, 1997) (FRL–5719–5) would help characterize possible health effects of the substance. EPA will require any manufacturer importer, or processor who distributes this substance for use in a consumer product to perform this testing.
CFR citation: 40 CFR 721.5650.

PMN Number P–95–1772

Chemical name: (generic) Polyalkyl phosphate.
CAS number: Not available.
Basis for action: The PMN substance will be used as a specialty additive. Based on analogy to neutral organic substances, EPA expects toxicity to aquatic organisms at surface water concentrations as low as 1 ppb. EPA determined that use of the substance as described in the PMN did not present an unreasonable risk because the substance did not exceed a concentration of 1 ppb when released to surface waters. EPA has determined that other uses may result in releases to surface waters above 1 ppb. Based on this information the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).
Recommended testing: EPA has determined that a fish acute toxicity study (40 CFR 797.1400 or OPPTS 850.1075 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), a daphnid acute toxicity study (40 CFR 797.1300 or OPPTS 850.1010 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), and an algal acute toxicity study (40 CFR 797.1050 or OPPTS 850.5400 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)) would help characterize the environmental effects of the PMN substance.
CFR citation: 40 CFR 721.5995.

PMN Number P–95–1806

Chemical name: (generic) Quaternary ammonium hydroxide.
CAS number: Not available.
Basis for action: The PMN substance will be used as an additive. Based on analogy to cationic surfactants, EPA is concerned that toxicity to aquatic organisms may occur at a concentration as low as 4 ppb of the PMN substance in surface waters. EPA determined that use of the substance as described in the PMN did not present an unreasonable risk because the substance was not released to surface waters. EPA has determined that other uses may result in releases to surface waters above the concern concentration. Based on this information the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).
Recommended testing: EPA has determined that a fish acute toxicity study (40 CFR 797.1400 or OPPTS 850.1075 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), a daphnid acute toxicity study (40 CFR 797.1300 or OPPTS 850.1010 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), and an algal acute toxicity study (40 CFR 797.1050 or OPPTS 850.5400 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)) would help characterize the environmental effects of the PMN substance.
CFR citation: 40 CFR 721.4467.

PMN Number P–95–1825

Chemical name: Thieno[3,4-b]-1,4-dioxin, 2,3-dihydro- (9CI).
CAS number: 126213–50–1.
Basis for action: The PMN substance will be used in an open non-dispersive use. Based on analogy to structurally similar substances, EPA identified concerns for cancer and based on submitted test data EPA identified concerns for liver toxicity and neurotoxicity. EPA determined that use of the substance as described in the PMN did not present an unreasonable risk because significant human exposure is not expected. EPA has determined that use of the substance without the worker protection cited in the PMN or if the substance is manufactured domestically may result in significant human exposure. Based on this information the PMN substance meets the concern criteria at § 721.170 (b)(1)(i)(C) and (b)(3)(i).
Recommended testing: EPA has determined that a 2-year, two-species bioassay (40 CFR 799.9420) (62 FR 43838, August 15, 1997) (FRL–5719–5) and a 90-day subchronic oral study in rats (40 CFR 798.2650 or OPPTS 870.3100 test guideline (public draft; 61 FR 31522, June 20, 1996) (FRL–5367–7)) will address the potential health effects of the PMN substance.
CFR citation: 40 CFR 721.9662.

PMN Number P–95–1891

Chemical name: Siloxanes and silicones, Me hydrogen, reaction

products with 2,2,6,6-tetramethyl-4-(2-propenyloxy)piperdine.

CAS number: 182635–99–0.

Basis for action: The PMN substance will be used as an ultraviolet light stabilizer for polymers. Based on analogy to hindered amines, there is concern for toxicity to the immune system and the G.I. tract, liver toxicity, blood toxicity, and toxicity to the male reproductive system. EPA determined that use of the substance as described in the PMN did not present an unreasonable risk because workers would not be exposed by inhalation. EPA determined that use as a powder may result in inhalation exposure to workers. Based on this information the PMN substance meets the concern criteria at § 721.170(b)(3)(ii).

Recommended testing: EPA has determined that a 90-day subchronic inhalation study in rats (40 CFR 798.2650 or OPPTS 870.3100 test guideline (public draft; 61 FR 31522, June 20, 1996) (FRL–5367–7)) would characterize the human health effects of the PMN substance.

CFR citation: 40 CFR 721.6170.

PMN Number P–95–1950

Chemical name: (generic) Substituted ethoxyethylamine phosphonate.

CAS number: Not available.

Basis for action: The PMN substance will be used as a scale inhibitor. Based on analogy to polyanionic monomers, EPA is concerned that toxicity to aquatic organisms may occur at a concentration as low as 30 ppb of the PMN substance in surface waters. EPA determined that use of the substance as described in the PMN did not present an unreasonable risk because the substance was not released to surface waters. EPA has determined that other uses may result in releases to surface waters above 30 ppb. Based on this information the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).

Recommended testing: EPA has determined that a fish acute toxicity study (40 CFR 797.1400 or OPPTS 850.1075 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), a daphnid acute toxicity study (40 CFR 797.1300 or OPPTS 850.1010 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), and an algal acute toxicity study (40 CFR 797.1050 or OPPTS 850.5400 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)) would help characterize the environmental effects of the PMN substance.

CFR citation: 40 CFR 721.6078.

PMN Number P–95–2101

Chemical name: Hydrazine, (2-fluorophenyl).

CAS Number: 2368–80–1.

Basis for action: The PMN substance will be used as an intermediate. Based on analogy of the PMN substance to hydrazines EPA is concerned that oncogenicity, liver and kidney effects, lung effects, and blood effects will occur to exposed workers and that toxicity will occur to aquatic organisms. EPA determined that use of the substance as described in the PMN did not present an unreasonable risk because there were no significant worker or environmental exposures. EPA has determined that domestic manufacture of the substance may result in significant worker and environmental exposures. Based on this information the PMN substance meets the concern criteria at § 721.170 (b)(1)(i)(C), (b)(3)(ii), and (b)(4)(ii).

Recommended testing: EPA has determined that a 2-year, two-species oral bioassay (40 CFR 799.9420) (62 FR 43838, August 15, 1997) (FRL–5719–5) and a 90-day subchronic oral study in rats (40 CFR 798.2650 or OPPTS 870.3100 test guideline (public draft; 61 FR 31522, June 20, 1996) (FRL–5367–7)) would help characterize the health effects of the PMN substance. A fish acute toxicity study (40 CFR 797.1400 or OPPTS 850.1075 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), a daphnid acute toxicity study (40 CFR 797.1300 or OPPTS 850.1010 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), and an algal acute toxicity study (40 CFR 797.1050 or OPPTS 850.5400 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)) would help characterize the environmental effects of the PMN substance.

CFR citation: 40 CFR 721.4257.

PMN Number P–96–19

Chemical name: Lithiated metal oxide ($LiNiO_2$).

CAS number: 12031–65–1.

Effective date of section 5(e) consent order: June 26, 1996.

Basis for section 5(e) consent order: The order was issued under section 5(e)(1)(A)(i) and (e)(1)(A)(ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to human health and the environment.

Toxicity concern: Similar chemicals have been shown to cause cancer and systemic toxicity in test animals. In addition, based on Structure Activity Relationship (SAR) analysis derived from test data on structurally similar compounds, EPA expects toxicity to aquatic organisms to occur at a concentration of 30 ppb PMN substance in surface waters.

Recommended testing: The results of a 90-day subchronic inhalation toxicity study in rats (40 CFR 799.9346) (62 FR 43828, August 15, 1997) (FRL–5719–5) and a 2-year, two-species bioassay via inhalation (40 CFR 799.9420) (62 FR 43838, August 15, 1997) (FRL–5719–5) would help characterize the human health concerns. The results of a fish acute toxicity study (40 CFR 797.1400 or OPPTS 850.1075 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), a daphnid acute toxicity study (40 CFR 797.1300 or OPPTS 850.1010 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), and an algal acute toxicity study (40 CFR 797.1050 or OPPTS 850.5400 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)) conducted using static method and nominal concentrations, would help to characterize the toxicity of the substance. The consent order contains two production volume limits. The PMN submitter has agreed not to exceed the first production volume limit without performing the 90-day subchronic toxicity test. The PMN submitter has also agreed not to exceed the second higher production volume limit without performing the bioassay.

CFR citation: 40 CFR 721.5549.

PMN Number P–96–33

Chemical name: Cyclopropanecarboxaldehyde.

CAS number: 1489–69–6.

Effective date of section 5(e) consent order: November 27, 1996.

Basis for section 5(e) consent order: The order was issued under section 5 (e)(1)(A)(i) and (e)(1)(A)(ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to human health.

Toxicity concern: Similar aldehydes have been shown to cause lung irritation, carcinogenicity, mutagenicity, and liver toxicity in test animals. Developmental effects are possible based on the acid.

Recommended testing: EPA has determined that an *in vitro* mouse lymphoma assay (40 CFR 799.9530) (62 FR 43846, August 15, 1997) (FRL–5719–5) and an *in vivo* mouse micronucleus assay (40 CFR 799.9539) (62 FR 43853, August 15, 1997) (FRL–5719–5), a 90-day inhalation test in rats (OECD guideline no. 413), a 2-year, one-species bioassay (40 CFR 799.9420) (62 FR 43838, August 15, 1997) (FRL–5719–5) would help characterize the human health effects. The consent order contains two production volume limits.

The PMN submitter has agreed not to exceed the first production volume limit without performing the *in vitro* mouse lymphoma, *in vivo* mouse micronucleus assays, and the 90-day inhalation test in rats. The PMN submitter has also agreed not to exceed the second production volume limit without performing a 2-year, one-species bioassay, which EPA may elect not to require depending on the results of the mutagenicity studies and the 90-day test.
CFR citation: 40 CFR 721.2280.

PMN Number P–96–92

Chemical name: (generic) 1,4-benzenediol, 2-(1,1,3,3-tetramethylbutyl) and Bis(dimethylamino substituted) carbomonocycle.
CAS number: Not available.
Basis for action: The PMN substance will be used in a consumer article. Based on analogy to hydroquinones, EPA is concerned that toxicity to aquatic organisms may occur at a concentration as low as 1 ppb of the PMN substance in surface waters. EPA determined that use of the substance as described in the PMN did not present an unreasonable risk because the substance would not be released to surface waters in significant quantities. EPA has determined that other uses of the substance may result in releases to surface waters which exceed the concern concentration. Based on this information the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).
Recommended testing: EPA has determined that a fish acute toxicity study (40 CFR 797.1400 or OPPTS 850.1075 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), a daphnid acute toxicity study (40 CFR 797.1300 or OPPTS 850.1010 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), and an algal acute toxicity study (40 CFR 797.1050 or OPPTS 850.5400 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)) would help characterize the environmental effects of the PMN substance.
CFR citation: 40 CFR 721.1155.

PMN Number P–96–93

Chemical name: Benzenamine, 4,4′-methylenebis[2-methyl-6-(1-methylethyl)]-.
CAS number: 16298–38–7.
Basis for action: The PMN substance will be used in a non-dispersive use. Based on submitted test data EPA is concerned that toxicity to aquatic organisms may occur at a concentration as low as 20 ppb of the PMN substance in surface waters. EPA determined that use of the substance as described in the PMN did not present an unreasonable risk because the substance would not be released to surface waters. EPA has determined that other uses of the substance may result in releases to surface waters which exceed the concern concentration. Based on this information the PMN substance meets the concern criteria at § 721.170(b)(4)(i).
Recommended testing: EPA has determined that a chronic 60-day fish early life stage toxicity test in rainbow trout (40 CFR 797.1600 or OPPTS 850.1400 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)) and a 21-day daphnid chronic toxicity test (40 CFR 797.1330 or OPPTS 850.1300 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)) would help characterize the environmental effects of the PMN substance.
CFR citation: 40 CFR 721.1105.

PMN Number P–96–236

Chemical name: 1-Tridecyn-3-ol, 3-methyl.
CAS Number: 100912–15–0.
Basis for action: The PMN substance will be used as an intermediate. Based on analogy of the PMN substance to 1-hexyn-3-ol and other structurally similar substances, EPA is concerned that liver toxicity, kidney toxicity, neurotoxicity, reproductive toxicity, and cardiotoxicity will occur to exposed workers. EPA determined that use of the substance as described in the PMN did not present an unreasonable risk because significant worker exposures were not expected. EPA has determined that domestic manufacture of the substance or use of the substance without dermal protective equipment may result in significant worker exposures. Based on this information the PMN substance meets the concern criteria at § 721.170(b)(3)(ii).
Recommended testing: EPA has determined that an oral 2-generation reproduction study in rats (40 CFR 799.9380) (62 FR 43834, August 15, 1997) (FRL–5719–5) and a 90-day subchronic oral study in rats (40 CFR 798.2650 or OPPTS 870.3100 test guideline (public draft; 61 FR 31522, June 20, 1996) (FRL–5367–7)) would help characterize the health effects of the PMN substance.
CFR citation: 40 CFR 721.9830.

PMN Number P–96–238

Chemical name: (generic) Azo monochloro triazine reactive dye.
CAS number: Not available.
Basis for action: The PMN substance will be used as a dye. Based on analogy to structurally similar substances and submitted test data, EPA is concerned that liver toxicity, blood toxicity, oncogenicity, neurotoxicity, and developmental toxicity will occur in exposed workers. EPA determined that use of the substance did not present an unreasonable risk because significant worker exposure is not expected because the substance was manufactured, processed, or used as liquids. EPA has determined that manufacture, processing, or use of the substance as a solid may result in significant worker exposure. Based on this information the PMN substance meets the concern criteria at § 721.170 (b)(3)(i), (b)(3)(ii), and (b)(3)(iii).
Recommended testing: EPA has determined that an oral two-species developmental toxicity test (40 CFR 799.9370) (62 FR 43832, August 15, 1997) (FRL–5719–5) and a 90-day subchronic oral study in rats (40 CFR 798.2650 or OPPT 870.3100 test guideline (public draft; 61 FR 31522, June 20, 1996) (FRL–5367–7)) would help characterize the health effects of the PMN substance.
CFR citation: 40 CFR 721.9717.

PMN Number P–96–273

Chemical name: (generic) Chloroalkane.
CAS number: Not available.
Basis for action: The PMN substance will be used as an intermediate. Based on toxicity data submitted with the PMN and by analogy to chlorinated solvents, EPA identified health concerns for liver toxicity, kidney toxicity, neurotoxicity, and oncogenicity. EPA determined that use of the substance as described in the PMN did not present an unreasonable risk because significant human exposure is not expected. EPA has determined that use of the substance other than as described in the PMN may result in significant human exposure. Based on this information the PMN substance meets the concern criteria at § 721.170 (b)(1)(i)(C), (b)(3)(i), and (b)(3)(ii).
Recommended testing: EPA has determined that a 2-year, two-species oral bioassay (40 CFR 799.9420) (62 FR 43838, August 15, 1997) (FRL–5719–5) and a 90-day subchronic oral study in rats (40 CFR 798.2650 or OPPT 870.3100 test guideline (public draft; 61 FR 31522, June 20, 1996) (FRL–5367–7)) would help characterize the health effects of the PMN substance.
CFR citation: 40 CFR 721.2091.

PMN Number P–96–346

Chemical name: (generic) Aminofunctional alkoxy alkyl siloxane.
CAS number: Not available.
Basis for action: The PMN substance will be used as an adhesion promoter.

Based on analogy to aliphatic amines and ethoxysilanes, EPA is concerned that toxicity to aquatic organisms may occur at a concentration as low as 10 ppb of the PMN substance in surface waters. EPA determined that use of the substance as described in the PMN did not present an unreasonable risk because the substance was not released to surface waters. EPA has determined that other uses may result in releases to surface waters above 10 ppb. Based on this information the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).
Recommended testing: EPA has determined that a fish acute toxicity study (40 CFR 797.1400 or OPPTS 850.1075 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), a daphnid acute toxicity study (40 CFR 797.1300 or OPPTS 850.1010 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), and an algal acute toxicity study (40 CFR 797.1050 or OPPTS 850.5400 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)) would help characterize the environmental effects of the PMN substance.
CFR citation: 40 CFR 721.9515.

PMN Numbers P–96–399/400/401/402/403/404

Chemical name: (generic) Alkyl polycarboxylic acids, esters with ethoxylated fatty alcohols, reaction products with maleic anhydride.
CAS number: Not available.
Basis for action: The PMN substances will be used as site-limited production intermediates. Based on analogy to nonionic surfactants, EPA is concerned that toxicity to aquatic organisms may occur at a concentration as low as 9 ppb of the PMN substances in surface waters. EPA determined that use of the substances as described in the PMNs did not present an unreasonable risk because the substances were not released to surface waters. EPA has determined that other uses may result in releases to surface waters. Based on this information the PMN substances meet the concern criteria at § 721.170(b)(4)(ii).
Recommended testing: EPA has determined that a fish acute toxicity study (40 CFR 797.1400 or OPPTS 850.1075 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), a daphnid acute toxicity study (40 CFR 797.1300 or OPPTS 850.1010 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), and an algal acute toxicity study (40 CFR 797.1050 or OPPTS 850.5400 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)) would help characterize the environmental effects of the PMN substances.
CFR citation: 40 CFR 721.6477.

PMN Numbers P–96–406/407/408

Chemical name: (generic) Alkyltri, tetra, and pentaamines.
CAS number: Not available.
Basis for action: The PMN substances will be used as industrial lubricants and fuel additives. Based on analogy to aliphatic amines, EPA is concerned that toxicity to aquatic organisms may occur at a concentration as low as 1 ppb of the PMN substances in surface waters. EPA determined that use of the substances as described in the PMNs did not present an unreasonable risk because the substances were not released to surface waters. EPA has determined that other uses may result in releases to surface waters. Based on this information the PMN substances meet the concern criteria at § 721.170(b)(4)(ii).
Recommended testing: EPA has determined that a fish acute toxicity study (40 CFR 797.1400 or OPPTS 850.1075 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), a daphnid acute toxicity study (40 CFR 797.1300 or OPPTS 850.1010 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), and an algal acute toxicity study (40 CFR 797.1050 or OPPTS 850.5400 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)) would help characterize the environmental effects of the PMN substances.
CFR citation: 40 CFR 721.2350.

PMN Numbers P–96–554/555/556/557/558/559/560/561/564/565

Chemical name: (generic) Alkyl polycarboxylic acids, esters with ethoxylated fatty alcohols.
CAS number: Not available.
Basis for action: The PMN substances will be used as intermediates. Based on analogy to nonionic surfactants, EPA is concerned that toxicity to aquatic organisms may occur at a concentration as low as 20 ppb of the PMN substances in surface waters. EPA determined that use of the substances as described in the PMN did not present an unreasonable risk because the substances would not be released to surface waters. EPA has determined that other uses of the substances may result in releases to surface waters which exceed the concern concentration. Based on this information the PMN substances meets the concern criteria at § 721.170(b)(4)(ii).
Recommended testing: EPA has determined that a fish acute toxicity study (40 CFR 797.1400 or OPPTS 850.1075 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), a daphnid acute toxicity study (40 CFR 797.1300 or OPPTS 850.1010 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), and an algal acute toxicity study (40 CFR 797.1050 or OPPTS 850.5400 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)) would help characterize the environmental effects of the PMN substances.
CFR citation: 40 CFR 721.6475.

PMN Number P–96–573

Chemical name: (generic) Ethoxylated alkyl quaternary ammonium compound.
CAS Number: Not available.
Basis for action: The PMN substance will be used in an open dispersive use. Based on analogy of the PMN substance to cationic surfactants, EPA is concerned that toxicity to aquatic organisms may occur at a concentration as low as 1 ppb of the PMN substance in surface waters. EPA determined that use of the substance as described in the PMN did not present an unreasonable risk because there were no significant environmental exposures. EPA has determined that any use of the substance other than for the specific use described in the PMN may result in significant environmental exposures. Based on this information the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).
Recommended testing: EPA has determined that a fish acute toxicity study (40 CFR 797.1400 or OPPTS 850.1075 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), a daphnid acute toxicity study (40 CFR 797.1300 or OPPTS 850.1010 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), and an algal acute toxicity study (40 CFR 797.1050 or OPPTS 850.5400 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)) would help characterize the environmental effects of the PMN substances.
CFR citation: 40 CFR 721.655.

PMN Number P–96–585

Chemical name: (generic) Salt of a substituted polyalkylenepolyamine.
CAS number: Not available.
Basis for action: The PMN substance will be used as a processing aid. Based on analogy to aliphatic amines, EPA is concerned that toxicity to aquatic organisms may occur at a concentration as low as 1 ppb of the PMN substance in surface waters. EPA determined that use of the substance as described in the PMN did not present an unreasonable risk because the substance was not released to surface waters. EPA has determined that other uses may result in

releases to surface waters. Based on this information the PMN substance meet the concern criteria at § 721.170(b)(4)(ii).
Recommended testing: EPA has determined that a fish acute toxicity study (40 CFR 797.1400 or OPPTS 850.1075 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), a daphnid acute toxicity study (40 CFR 797.1300 or OPPTS 850.1010 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), and an algal acute toxicity study (40 CFR 797.1050 or OPPTS 850.5400 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)) would help characterize the environmental effects of the PMN substance.
CFR citation: 40 CFR 721.6197.

PMN Number P–96–702

Chemical name: (generic) Substituted phenyl azo substituted sulfo carbopolycycle.
CAS number: Not available.
Basis for action: The PMN substance will be used in an open nondispersive use. EPA determined that use of the substance as described in the PMN did not present an unreasonable risk because it did not result in significant human or environmental exposure. EPA has determined that increased use of the substance may result in significant environmental and human exposure.
Recommended testing: EPA has determined that a fish acute toxicity study (40 CFR 797.1400 or OPPTS 850.1075 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), a daphnid acute toxicity study (40 CFR 797.1300 or OPPTS 850.1010 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), and an activated sludge adsorption isotherm (OPPTS 835.1110 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1) would help characterize the environmental effects of the PMN substance. A murine immune allergic response study (*Toxicology and Applied Pharmacology* 112:190–197 (1992)) would help characterize the health effects of the PMN substance.
CFR citation: 40 CFR 721.2122.

PMN Numbers P–96–767/773

Chemical name: (generic) Substituted pyridine azo substituted phenyl.
CAS number: Not available.
Basis for action: The PMN substances will be used as textile dyes. Based on analogy to structurally similar substances, EPA is concerned that liver toxicity, kidney toxicity, oncogenicity, blood toxicity, neurotoxicity, and developmental toxicity will occur in exposed workers. EPA determined that use of the substances did not present an unreasonable risk because significant worker exposure is not expected because the substances were not manufactured domestically. EPA has determined that domestic manufacture of the substances may result in significant worker exposure. Based on this information the PMN substances meet the concern criteria at § 721.170 (b)(1)(i)(C) and (b)(3)(ii).
Recommended testing: EPA has determined that a 2-year, two-species oral bioassay (40 CFR 799.9420) (62 FR 43838, August 15, 1997) (FRL–5719–5), a two-species oral developmental toxicity study (40 CFR 799.9370) (62 FR 43832, August 15, 1997) (FRL–5719–5), and a subchronic oral study in rats (40 CFR 798.2650 or OPPTS 870.3100 test guideline (public draft; 61 FR 31522, June 20, 1996) (FRL–5367–7)) would help characterize the health effects of the PMN substances.
CFR citation: 40 CFR 721.8780.

PMN Number P–96–795

Chemical name: (generic) Mixed fatty alkylamines, salt.
CAS number: Not available.
Basis for action: The PMN substance will be used as a processing aid. Based on analogy to aliphatic amines, EPA is concerned that toxicity to aquatic organisms may occur at a concentration as low as 1 ppb of the PMN substance in surface waters. EPA determined that use of the substance as described in the PMN did not present an unreasonable risk because the substance was not released to surface waters. EPA has determined that other uses may result in releases to surface waters. Based on this information the PMN substance meet the concern criteria at § 721.170(b)(4)(ii).
Recommended testing: EPA has determined that a fish acute toxicity study (40 CFR 797.1400 or OPPTS 850.1075 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), a daphnid acute toxicity study (40 CFR 797.1300 or OPPTS 850.1010 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), and an algal acute toxicity study (40 CFR 797.1050 or OPPTS 850.5400 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)) would help characterize the environmental effects of the PMN substance.
CFR citation: 40 CFR 721.567.

PMN Number P–96–813

Chemical name: (generic) Phenothiazine derivative.
CAS number: Not available.
Basis for action: The PMN substance will be used as a mediator in enzyme catalyzed reactions. Based on analogy to phenothiazines and submitted toxicity data, EPA is concerned that blood toxicity, liver toxicity, kidney effects, adrenal toxicity, spleen toxicity, reproductive toxicity, and neurotoxicity will occur in exposed workers. Based on submitted test data EPA is also concerned that toxicity to aquatic organisms will occur at concentrations as low as 7 ppb. EPA determined that use of the substance did not present an unreasonable risk because the use as described in the PMN would not result in significant worker exposure or environmental release. EPA has determined that domestic manufacture of the substance as a powder may result in significant worker exposure or environmental release. Based on this information the PMN substance meets the concern criteria at § 721.170 (b)(3)(i), (b)(3)(ii), and (b)(4)(i).
Recommended testing: EPA has determined that a 90-day subchronic inhalation study in rats (40 CFR 798.2650 or OPPTS 870.3100 test guideline (public draft; 61 FR 31522, June 20, 1996) (FRL–5367–7)), a chronic 60-day fish early life stage toxicity test in rainbow trout (40 CFR 797.1600 or OPPTS 850.1400 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)) and a 21-day daphnid chronic toxicity test (40 CFR 797.1330 or OPPTS 850.1300 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)) would help characterize the health and environmental effects of the PMN substance.
CFR citation: 40 CFR 721.5913.

PMN Number P–96–824

Chemical name: (generic) Acrylate ester.
CAS number: Not available.
Basis for action: The PMN substance will be used as a monomer. Based on analogy to acrylates, EPA identified concerns for toxicity to aquatic organisms at concentrations as low as 6 ppb. EPA determined that use of the substance as described in the PMN did not present an unreasonable risk because significant environmental exposure is not expected. EPA has determined that other uses may result in releases to water which are significant environmental exposures. Based on this information the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).
Recommended testing: EPA has determined that a fish acute toxicity study (40 CFR 797.1400 or OPPTS 850.1075 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), a daphnid acute toxicity study (40 CFR 797.1300 or OPPTS 850.1010 test

guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), and an algal acute toxicity study (40 CFR 797.1050 or OPPTS 850.5400 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)) would help characterize the environmental effects of the PMN substance.
CFR citation: 40 CFR 721.2805.

PMN Number P–96–866

Chemical name: (generic) Derivative of substituted carbomonocyclic carboxylic acid-amine distillation stream byproduct reaction product.
CAS number: Not available.
Basis for action: The PMN substance will be used as a processing aid. Based on analogy to aliphatic amines, EPA is concerned that toxicity to aquatic organisms may occur at a concentration as low as 1 ppb of the PMN substance in surface waters. EPA determined that use of the substance as described in the PMN did not present an unreasonable risk because the substance was not released to surface waters. EPA has determined that other uses may result in releases to surface waters. Based on this information the PMN substance meet the concern criteria at § 721.170(b)(4)(ii).
Recommended testing: EPA has determined that a fish acute toxicity study (40 CFR 797.1400 or OPPTS 850.1075 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), a daphnid acute toxicity study (40 CFR 797.1300 or OPPTS 850.1010 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), and an algal acute toxicity study (40 CFR 797.1050 or OPPTS 850.5400 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)) would help characterize the environmental effects of the PMN substance.
CFR citation: 40 CFR 721.2082.

PMN Number P–96–897

Chemical name: (generic) Terpene residue distillates.
CAS number: Not available.
Basis for action: The PMN substance will be used as an odor enhancer. Based on analogy to neutral organic substances, EPA is concerned that toxicity to aquatic organisms may occur at a concentration as low as 10 ppb of the PMN substance in surface waters. EPA determined that use of the substance as described in the PMN did not present an unreasonable risk because the substance would not be released to surface waters above a level of 10 ppb. EPA has determined that other uses of the substance may result in releases to surface waters which exceed the concern concentration. Based on this information the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).
Recommended testing: EPA has determined that a fish acute toxicity study (40 CFR 797.1400 or OPPTS 850.1075 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), a daphnid acute toxicity study (40 CFR 797.1300 or OPPTS 850.1010 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), and an algal acute toxicity study (40 CFR 797.1050 or OPPTS 850.5400 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)) would help characterize the environmental effects of the PMN substance.
CFR citation: 40 CFR 721.9635.

PMN Number P–96–941

Chemical name: (generic) Ceteareth-25 sorbate.
CAS number: Not available.
Basis for action: The PMN substance will be used as an intermediate. Based on analogy to nonionic surfactants, EPA is concerned that toxicity to aquatic organisms may occur at a concentration as low as 1 ppb of the PMN substance in surface waters. EPA determined that use of the substance as an intermediate did not present an unreasonable risk because the substance would not be released to surface waters in significant amounts. EPA has determined that other uses of the substance may result in releases to surface waters which significantly exceed the concern concentration. Based on this information the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).
Recommended testing: EPA has determined that a fish acute toxicity study (40 CFR 797.1400 or OPPTS 850.1075 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), a daphnid acute toxicity study (40 CFR 797.1300 or OPPTS 850.1010 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), and an algal acute toxicity study (40 CFR 797.1050 or OPPTS 850.5400 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)) would help characterize the environmental effects of the PMN substance.
CFR citation: 40 CFR 721.2145.

PMN Number P–96–942

Chemical name: Methanone, [5-[[3-(2H-benzotriazol-2-yl)-2-hydroxy-5-(1,1,3,3-tetramethylbutyl)phenyl]methyl]-2-hydroxy-4-(octyloxy)phenyl]phenyl-.
CAS number: 162245–07–0.
Effective date of section 5(e) consent order: September 24, 1996.
Basis for section 5(e) consent order: The order was issued under section 5 (e)(1)(A)(i) and (e)(1)(A)(ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to human health. Toxicity concern: Section 8(e) data and data on analogous hindered phenol benzotriazoles have shown similiar substances to cause increased organ weight (liver and kidney, with associated histopathology at higher doses); hematological effects (decreased hemoglobin, packed cell volume, and erythrocytes); and immune systems effects(weight changes in thymus, spleen, lymph nodes; decreased leukocytes) in test animals.
Recommended testing: EPA has determined that a 90-day gavage study in rats (40 CFR 798.2650 or OPPTS 870.3100 test guideline (public draft; 61 FR 31522, June 20, 1996) (FRL–5367–7)) with special attention to hematology would help characterize systemic toxicity and reproductive toxicity. The PMN submitter has agreed not to exceed the production volume limit without performing this test.
CFR citation: 40 CFR 721.4885.

PMN Numbers P–96–945/946/947/948

Chemical name: (generic) Mixture of hydrochlorofluoro alkanes and hydrochlorofluoro alkene.
CAS number: Not available.
Basis for action: The PMN substances will be used as intermediates. Based on analogy to similar substances, EPA is concerned that lung toxicity, neurotoxicity, irritation, oncogenicity, liver toxicity, kidney toxicity, and cardiac sensitization will occur in exposed workers. EPA determined that use of the substance as an intermediate did not present an unreasonable risk because it did not result in significant worker exposure. EPA has determined that use other than an intermediate may result in significant worker exposure. Based on this information the PMN substance meets the concern criteria at § 721.170(b)(3)(ii).
Recommended testing: EPA has determined that a 90-day subchronic oral study in rats (40 CFR 798.2650 or OPPTS 870.3100 test guideline (public draft; 61 FR 31522, June 20, 1996) (FRL–5367–7)) and a 2-year, two-species oral bioassay (40 CFR 799.9420) (62 FR 43838, August 15, 1997) (FRL–5719–5) would help characterize the health effects of the PMN substance.
CFR citation: 40 CFR 721.4464.

PMN Numbers P–96–950/951

Chemical name: (generic) Polymers of $C_{13}C_{15}$ oxoalcohol ethoxolate, ammonia, and maleic anhydride.

CAS number: Not available.
Basis for action: The PMN substances will be used as described in the PMN. Based on structure activity relationships to nonionic surfactants-alkylethoxylates, EPA is concerned that toxicity to aquatic organisms may occur at a concentration as low as 9 ppb of the PMN substances in surface waters. EPA determined that use of the substances as described in the PMNs did not present an unreasonable risk because the substances would not be released to surface waters. EPA has determined that other uses of the substances may result in releases to surface waters which exceed the concern concentration. Based on this information the PMN substances meet the concern criteria at § 721.170(b)(4)(ii).
Recommended testing: EPA has determined that a fish acute toxicity study (40 CFR 797.1400 or OPPTS 850.1075 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), a daphnid acute toxicity study (40 CFR 797.1300 or OPPTS 850.1010 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), and an algal acute toxicity study (40 CFR 797.1050 or OPPTS 850.5400 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)) would help characterize the environmental effects of the PMN substances.
CFR citation: 40 CFR 721.6505.

PMN Number P–96–1176

Chemical name: Cyclohexanamine, *N,N*-dimethyl-, compd. with alpha-isotridecyl-omega-hydroxypoly(oxy-1,2-ethanediyl) phosphate.
CAS Number: 164383–18–0.
Basis for action: The PMN substance will be used as a pigment dispersant for color dispersion. Based on analogy to phosphate based anionic surfactants, EPA expects toxicity to aquatic organisms at surface water concentrations as low as 20 ppb. EPA determined that use of the substance as described in the PMN did not present an unreasonable risk because there were no significant environmental exposures. EPA has determined that any use of the substance other than for the specific use described in the PMN may result in significant exposures. Based on this information the PMN substances meet the concern criteria at § 721.170(b)(4)(ii).
Recommended testing: EPA has determined that a fish acute toxicity study (40 CFR 797.1400 or OPPTS 850.1075 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), a daphnid acute toxicity study (40 CFR 797.1300 or OPPTS 850.1010 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), and an algal acute toxicity study (40 CFR 797.1050 or OPPTS 850.5400 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)) would help characterize the environmental effects of the PMN substance
CFR citation: 40 CFR 721.2222.

PMN Number P–96–1177

Chemical name: Tungstate (W12(OH)2O386-) hexasodium (9CI).
CAS Number: 12141–67–2.
Basis for action: The PMN substance will be used in an open non-dispersive use. Based on submitted test data, EPA is concerned that hepatotoxicity, kidney toxicity, neurotoxicity, reproductive toxicity, eye and skin irritation, and toxicity to the GI tract, spleen, lungs, pancreas, urinary bladder, and the lymph system may occur. EPA determined that use of the substance as described in the PMN did not present an unreasonable risk because there were no significant inhalation exposures. EPA has determined that any use of the substance other than for the specific use described in the PMN may result in significant inhalation exposures. Based on this information the PMN substance meets the concern criteria at § 721.170(b)(3)(i).
Recommended testing: EPA has determined that a 2-year, two-species oral bioassay (40 CFR 799.9420) (62 FR 43838, August 15, 1997) (FRL–5719–5) and a 90-day subchronic inhalation study in rats (40 CFR 798.2650 or OPPTS 870.3100 test guideline (public draft; 61 FR 31522, June 20, 1996) (FRL–5367–7)) would help characterize the health effects of the PMN substance.
CFR citation: 40 CFR 721.9840.

PMN Number P–96–1216

Chemical name: Benzoic acid, 3-amino-, diazotized, coupled with 6-amino-4-hydroxy-2-naphthalenesulfonic acid, diazotized, (3-aminophenyl)phosphonic acid and diazotized 2,5-diethoxybenzenamine.
CAS number: 163879–69–4.
Basis for action: The PMN substance will be used as a coloring material. Based on submitted toxicity data on the PMN substance and analogy to the azo reduction products, EPA is concerned that eye irritation, skin sensitization, reproductive toxicity in males, blood toxicity, liver toxicity, kidney toxicity, reproductive toxicity, spleen effects, oncogenicity, neurotoxicity, and developmental toxicity will occur in workers exposed via inhalation. EPA determined that use of the substance as described in the PMN does not present an unreasonable risk. Significant worker inhalation exposure is not expected because the substance will not be manufactured, processed, or used as a powder. EPA has determined that manufacture, processing, and use of the substance as a powder may result in significant worker inhalation exposure. Based on this information the PMN substance meets the concern criteria at § 721.170 (b)(1)(i)(D), (b)(3)(i), and (b)(3)(iii).
Recommended testing: EPA has determined that a 2-year, two-species oral bioassay (40 CFR 799.9420) (62 FR 43838, August 15, 1997) (FRL–5719–5) and a 2-generation reproductive toxicity study (40 CFR 799.9380) (62 FR 43834, August 15, 1997) (FRL–5719–5) would help characterize the human health effects of the PMN substance.
CFR citation: 40 CFR 721.1705.

PMN Number P–96–1233

Chemical name: (generic) Reaction product of epoxy with anhydride and glycerol and glycol.
CAS number: Not available.
Basis for action: The PMN substance will be used as molding compound. Based on analogy to diepoxides and esters EPA is concerned that toxicity to aquatic organisms may occur at a concentration as low as 30 ppb of the PMN substance in surface waters. Based on analogy to similar substances there is concern for oncogenicity, developmental toxicity, reproductive toxicity, and neurotoxicity to exposed workers. EPA determined that use of the substance as described in the PMN did not present an unreasonable risk because the substance would not be released to surface waters and workers would not be exposed by inhalation. EPA has determined that other uses or uses as a powder may result in releases to surface waters which exceed the concern concentration or inhalation exposure to workers. Based on this information the PMN substance meets the concern criteria at § 721.170 (b)(1)(i)(c), (b)(3)(ii), and (b)(4)(ii).
Recommended testing: EPA has determined that a fish acute toxicity study (40 CFR 797.1400 or OPPTS 850.1075 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), a daphnid acute toxicity study (40 CFR 797.1300 or OPPTS 850.1010 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), and an algal acute toxicity study (40 CFR 797.1050 or OPPTS 850.5400 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)) would help characterize the environmental effects of the PMN substance. EPA has also determined that a 2-year, two-species oral bioassay (40 CFR 799.9420) (62 FR 43838, August 15, 1997) (FRL–

5719–5), a 90-day subchronic inhalation study in rats (40 CFR 798.2650 or OPPTS 870.3100 test guideline (public draft; 61 FR 31522, June 20, 1996) (FRL–5367–7)), and a two-species oral developmental toxicity test (40 CFR 799.9370) (62 FR 43832, August 15, 1997) (FRL–5719–5) would characterize the human health effects of the PMN substance.
CFR citation: 40 CFR 721.9270.

PMN Number P–96–1239

Chemical name: (generic) Aliphatic polyisocyanate homopolymer.
CAS number: Not available.
Basis for action: The PMN substance will be used as an intermediate. Based on analogy to structurally similar substances, EPA is concerned that pulmonary sensitization and irritation will occur in exposed workers. EPA determined that use of the substance did not present an unreasonable risk because significant worker exposure is not expected because the substance was used as an intermediate. EPA has determined that use other than an intermediate may result in significant worker exposure. Based on this information the PMN substance meets the concern criteria at § 721.170(b)(3)(ii).
Recommended testing: EPA has determined that a 90-day inhalation study in rats (40 CFR 799.9346) (62 FR 43828, August 15, 1997) (FRL–5719–5) would help characterize the health effects of the PMN substance.
CFR citation: 40 CFR 721.4259.

PMN Number P–96–1240

Chemical name: Poly(oxy-1,2-ethanediyl), α-sulfo-ω-[1-[(4-nonylphenoxy)methyl]-2-(2-propenyloxy)ethoxy]-, branched, ammonium salts.
CAS number: 184719–88–8.
Basis for action: The PMN substance will be used as an emulsifier. Based on analogy to structurally similar substances and submitted test data, EPA is concerned that kidney toxicity, reproductive toxicity, developmental toxicity, and oncogenicity will occur in exposed workers. EPA determined that use of the substance did not present an unreasonable risk because significant worker exposure is not expected because the substance was not manufactured domestically. EPA has determined that domestic manufacture of the substance may result in significant worker exposure. Based on this information the PMN substance meets the concern criteria at § 721.170 (b)(1)(i)(C), (b)(3)(i), (b)(3)(ii), and (b)(3)(iii).
Recommended testing: EPA has determined that a 2-year, two-species oral bioassay (40 CFR 799.9420) (62 FR 43838, August 15, 1997) (FRL–5719–5), a two-species oral developmental toxicity test (40 CFR 799.9370) (62 FR 43832, August 15, 1997) (FRL–5719–5), and a 90-day subchronic oral study in rats (40 CFR 798.2650 or OPPTS 870.3100 test guideline (public draft; 61 FR 31522, June 20, 1996) (FRL–5367–7)) would help characterize the health effects of the PMN substance.
CFR citation: 40 CFR 721.539.

PMN Number P–96–1263

Chemical name: (generic) Substituted phenyl azo substituted sulfocarbopolycle, sodium salt.
CAS number: Not available.
Basis for action: The PMN substance will be used in a destructive use. Based on analogy to structurally similar substances, EPA is concerned that oncogenicity, blood effects, developmental toxicity, and neurotoxicity will occur in workers exposed via inhalation. EPA determined that use of the substance as described in the PMN does not present an unreasonable risk. Significant worker inhalation exposure is not expected because the substance will not be manufactured, processed, or used as a powder. EPA has determined that manufacture, processing, and use of the substance as a solid may result in significant worker inhalation exposure. Based on this information the PMN substance meets the concern criteria at § 721.170(b)(3)(iii).
Recommended testing: EPA has determined that a 2-year, two-species oral bioassay (40 CFR 799.9420) (62 FR 43838, August 15, 1997) (FRL–5719–5), a 90-day subchronic inhalation study in rats (40 CFR 798.2650 or OPPTS 870.3100 test guideline (public draft; 61 FR 31522, June 20, 1996) (FRL–5367–7)), and a two-species oral developmental toxicity test (40 CFR 799.9370) (62 FR 43832, August 15, 1997) (FRL–5719–5) would characterize the human health effects of the PMN substance.
CFR citation: 40 CFR 721.9545.

PMN Numbers P–96–1280/1281/1504/1505/1506/1507/1508

Chemical name: (generic) Quaternary ammonium alkyletherpropyl trialkylamine halides.
CAS number: Not available.
Basis for action: The PMN substances will be used as industrial production aids. Based on analogy to aliphatic amines and cationic surfactants, EPA is concerned that toxicity to aquatic organisms may occur at a concentration as low as 2 ppb of the PMN substances in surface waters. EPA determined that use of the substances as described in the PMN did not present an unreasonable risk because the substances would not be released to surface waters. EPA has determined that other uses of the substances may result in releases to surface waters which exceed the concern concentration. Based on this information the PMN substances meet the concern criteria at § 721.170(b)(4)(ii).
Recommended testing: EPA has determined that a fish acute toxicity study (40 CFR 797.1400 or OPPTS 850.1075 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), a daphnid acute toxicity study (40 CFR 797.1300 or OPPTS 850.1010 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), and an algal acute toxicity study (40 CFR 797.1050 or OPPTS 850.5400 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)) would help characterize the environmental effects of the PMN substance.
CFR citation: 40 CFR 721.4095.

PMN Number P–96–1288

Chemical name: (generic) Hydrofluoroalkene.
CAS number: Not available.
Basis for action: The PMN substance will be used as an intermediate. Based on analogy to structurally similar substances, EPA is concerned that lung toxicity, neurotoxicity, irritation, oncogenicity, liver toxicity, kidney toxicity, and cardiac sensitization will occur in exposed workers. EPA determined that use of the substance as an intermediate did not present an unreasonable risk because it did not result in significant worker exposure. EPA has determined that use other than an intermediate may result in significant worker exposure. Based on this information the PMN substance meets the concern criteria at § 721.170(b)(3)(ii).
Recommended testing: EPA has determined that a 90-day subchronic oral study in rats (40 CFR 798.2650 or OPPTS 870.3100 test guideline (public draft; 61 FR 31522, June 20, 1996) (FRL–5367–7)) and a 2-year, two-species oral bioassay (40 CFR 799.9420) (62 FR 43838, August 15, 1997) (FRL–5719–5) would help characterize the health and environmental effects of the PMN substance.
CFR citation: 40 CFR 721.4465.

PMN Number P–96–1315

Chemical name: 9H-Thioxanthen-9-one, 2,4-diethyl.
CAS number: 82799–44–8.

Basis for action: The PMN substance will be used as a photopolymerization initiator. Based on analogy to neutral organic substances, EPA is concerned that toxicity to aquatic organisms may occur at a concentration as low as 1 ppb of the PMN substance in surface waters. EPA determined that use of the substance as described in the PMN did not present an unreasonable risk because the substance would not be released to surface waters in significant quantities. EPA has determined that other uses of the substance may result in releases to surface waters which exceed the concern concentration. Based on this information the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).
Recommended testing: EPA has determined that a chronic 60-day fish early life stage toxicity test in rainbow trout (40 CFR 797.1600 or OPPTS 850.1400 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), a 21-day daphnid chronic toxicity test (40 CFR 797.1330 or OPPTS 850.1300 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), and an algal acute toxicity study (40 CFR 797.1050 or OPPTS 850.5400 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)) would help characterize the environmental effects of the PMN substance.
CFR citation: 40 CFR 721.9664.

PMN Number P–96–1319

Chemical name: (generic) Nitro methyl quinoline.
CAS number: Not available.
Basis for action: The PMN substance will be used in a destructive use. Based on analogy to structurally similar substances, there is concern for oncogenicity, mutagenicity, blood toxicity, and neurotoxicity. EPA determined that use of the substance as described in the PMN did not present an unreasonable risk because the substance would not be released to surface waters in significant amounts and workers would not be exposed by inhalation. EPA has determined that use without appropriate respiratory protection may result in significant inhalation exposure to workers and disposal other than by incineration may result in significant drinking water exposures to exposed populations. Based on this information the PMN substance meets the concern criteria at § 721.170 (b)(1)(i)(C) and (b)(3)(ii).
Recommended testing: EPA has determined that a 2-year, two-species oral bioassay (40 CFR 799.9420) (62 FR 43838, August 15, 1997) (FRL–5719–5) and a 90-day subchronic inhalation study in rats (40 CFR 798.2650 or OPPTS 870.3100 test guideline (public draft; 61 FR 31522, June 20, 1996) (FRL–5367–7)) would characterize the human health effects of the PMN substance.
CFR citation: 40 CFR 721.9080.

PMN Numbers P–96–1337/1338/1339

Chemical name: (generic) Amine substituted metal salts.
CAS number: Not available.
Basis for action: The PMN substances will be used as catalysts. Based on analogy to structurally similar compounds, EPA is concerned that toxicity to aquatic organisms may occur at a concentration as low as 4 ppb of the PMN substances in surface waters. EPA determined that use of the substances as described in the PMN did not present an unreasonable risk because the substances would not be released to surface waters in significant quantities. EPA has determined that other uses of the substances may result in releases to surface waters which exceed the concern concentration. Based on this information the PMN substances meets the concern criteria at § 721.170(b)(4)(ii).
Recommended testing: EPA has determined that a fish acute toxicity study (40 CFR 797.1400 or OPPTS 850.1075 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), a daphnid acute toxicity study (40 CFR 797.1300 or OPPTS 850.1010 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), and an algal acute toxicity study (40 CFR 797.1050 or OPPTS 850.5400 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)) would help characterize the environmental effects of the PMN substance.
CFR citation: 40 CFR 721.640.

PMN Number P–96–1410

Chemical name: (generic) Substituted bisaniline.
CAS number: Not available.
Basis for action: The PMN substance will be used as paper dye intermediate. Based on analogy to neutral organics, EPA is concerned that toxicity to aquatic organisms may occur at a concentration as low as 4 ppb of the PMN substance in surface waters. EPA determined that use of the substance as described in the PMN did not present an unreasonable risk because the substance would not be released to surface waters in significant quantities. EPA has determined that other uses of the substance may result in releases to surface waters which exceed the concern concentration. Based on this information the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).
Recommended testing: EPA has determined that a chronic 60-day fish early life stage toxicity test in rainbow trout (40 CFR 797.1600 or OPPTS 850.1400 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), a 21-day daphnid chronic toxicity test (40 CFR 797.1330 or OPPTS 850.1300 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), and an algal acute toxicity study (40 CFR 797.1050 or OPPTS 850.5400 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)) would help characterize the environmental effects of the PMN substance.
CFR citation: 40 CFR 721.1805.

PMN Number P–96–1427

Chemical name: (generic) Stilbene diglycidyl ether.
CAS number: Not available.
Effective date of section 5(e) consent order: March 14, 1997.
Basis for section 5(e) consent order: The order was issued under section 5(e)(1)(A)(i) and (e)(1)(A)(ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to health.
Toxicity concern: Diglycidyl ether of bisphenol A (DGEBA), other similar chemicals, and epoxides have been shown to cause mutagenicity, oncogenicity, male reproductive toxicity and mucous membrane irritation in test animals.
Recommended testing: EPA has determined that a 90-day subchronic oral toxicity study with attention to the male and female reproductive organs (40 CFR 798.2650 or OPPTS 870.3100 test guideline (public draft; 61 FR 31522, June 20, 1996) (FRL–5367–7)) would help to characterize the reproductive toxicity. The PMN submitter has agreed not to exceed the production volume limit without performing this test. A 2-year bioassay on bisphenol A-diglycidyl ether (40 CFR 799.9420) (62 FR 43838, August 15, 1997) (FRL–5719–5) would be required to evaluate the carcinogenicity effects which may be caused by the PMN substance. This study will serve as a surrogate for a carcinogenicity study on the PMN substance. The order does not require submission of the oncogenicity study at any specified time or production volume. However, the order's restrictions on manufacture, import, processing, distribution in commerce, use, and disposal of the PMN substance will remain in effect until the order is modified or revoked by EPA based on submission of that study or other relevant information.
CFR citation: 40 CFR 721.3465.

PMN Number P–96–1430

Chemical name: (generic) Alkylpoly(oxyalkylene)amine.
CAS number: Not available.
Basis for action: The PMN substance will be used as an intermediate. Based on analogy to aliphatic amines EPA is concerned that toxicity to aquatic organisms may occur at a concentration as low as 10 ppb of the PMN substance in surface waters. EPA determined that use of the substance as an intermediate did not present an unreasonable risk because it did not result in significant environmental exposure. EPA has determined that use other than an intermediate may result in significant environmental exposure. Based on this information the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).
Recommended testing: EPA has determined that a fish acute toxicity study (40 CFR 797.1400 or OPPTS 850.1075 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), a daphnid acute toxicity study (40 CFR 797.1300 or OPPTS 850.1010 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), and an algal acute toxicity study (40 CFR 797.1050 or OPPTS 850.5400 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)) would help characterize the environmental effects of the PMN substance.
CFR citation: 40 CFR 721.641.

PMN Number P–96–1478

Chemical name: (generic) Ethoxylated alcohol, phosphated, amine salt.
CAS number: Not available.
Basis for action: The PMN substance will be used as a polymer suspension agent. Based on analogy to phosphate ester surfactants EPA is concerned that toxicity to aquatic organisms may occur at a concentration as low as 8 ppb of the PMN substance in surface waters. EPA determined that use of the substance as described in the PMN did not present an unreasonable risk because significant releases of the substance is not expected to surface waters. EPA has determined that other uses of the substance may result in releases to surface waters which exceed the concern concentration. Based on this information the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).
Recommended testing: EPA has determined that a fish acute toxicity study (40 CFR 797.1400 or OPPTS 850.1075 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), a daphnid acute toxicity study (40 CFR 797.1300 or OPPTS 850.1010 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), and an algal acute toxicity study (40 CFR 797.1050 or OPPTS 850.5400 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)) would help characterize the environmental effects of the PMN substance.
CFR citation: 40 CFR 721.643.

PMN Numbers P–96–1510/1511/1512/1513/1514

Chemical name: (generic) Alkyletherpropyl dialkylamine.
CAS number: Not available.
Basis for action: The PMN substances will be used as intermediates. Based on analogy to aliphatic amines, EPA is concerned that toxicity to aquatic organisms may occur at a concentration as low as 1 ppb of the PMN substances in surface waters. EPA determined that use of the substances as described in the PMN did not present an unreasonable risk because there was not significant releases of the substances to surface waters. EPA has determined that uses other than as an intermediate may result in releases to surface waters which exceed the concern concentration. Based on this information the PMN substances meets the concern criteria at § 721.170(b)(4)(ii).
Recommended testing: EPA has determined that a fish acute toxicity study (40 CFR 797.1400 or OPPTS 850.1075 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), a daphnid acute toxicity study (40 CFR 797.1300 or OPPTS 850.1010 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), and an algal acute toxicity study (40 CFR 797.1050 or OPPTS 850.5400 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)) would help characterize the environmental effects of the PMN substances.
CFR citation: 40 CFR 721.2345.

PMN Number P–96–1536

Chemical name: 2-pyrrolidone, 1-ethenyl-3-ethylidene-, (E)-.
CAS number: 153954–47–3.
Basis for action: The PMN substance will be used as a crosslinker in a polymerization reaction. Based on analogy to structurally similar chemicals, EPA identified health concerns for oncogenicity, mutagenicity, neurotoxicity, and developmental toxicity. EPA determined that use of the substance as described in the PMN did not present an unreasonable risk because significant human exposure is not expected. EPA has determined that use of the substance without impervious gloves may result in significant human exposure. Based on this information the PMN substance meets the concern criteria at § 721.170 (b)(1)(i)(C) and (b)(3)(ii).
Recommended testing: EPA has determined that a 2-year, two-species bioassay (40 CFR 799.9420) (62 FR 43838, August 15, 1997) (FRL–5719–5) and a two-species oral developmental toxicity test (40 CFR 799.9370) (62 FR 43832, August 15, 1997) (FRL–5719–5) will address the potential health effects of the PMN substance as there is concern and potential from all routes of exposure.
CFR citation: 40 CFR 721.9010.

PMN Number P–96–1588

Chemical name: (generic) Hydrochloride salt of a mixed fatty amidoamine.
CAS number: Not available.
Basis for action: The PMN substance will be used as a processing aid. Based on analogy to aliphatic amines, EPA is concerned that toxicity to aquatic organisms may occur at a concentration as low as 2 ppb of the PMN substance in surface waters. EPA determined that use of the substance as described in the PMN did not present an unreasonable risk because the substance was not released to surface waters. EPA has determined that other uses may result in releases to surface waters. Based on this information the PMN substance meet the concern criteria at § 721.170(b)(4)(ii).
Recommended testing: EPA has determined that a fish acute toxicity study (40 CFR 797.1400 or OPPTS 850.1075 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), a daphnid acute toxicity study (40 CFR 797.1300 or OPPTS 850.1010 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), and an algal acute toxicity study (40 CFR 797.1050 or OPPTS 850.5400 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)) would help characterize the environmental effects of the PMN substance.
CFR citation: 40 CFR 721.637.

PMN Number P–96–1649

Chemical name: (generic) Modified silicone resin.
CAS number: Not available.
Basis for action: The PMN substance will be used as a polymerization initiator. Based on analogy to neutral organic chemicals, EPA is concerned that toxicity to aquatic organisms may occur at a concentration as low as 5 ppb of the PMN substance in surface waters. EPA determined that use of the substance as described in the PMN did not present an unreasonable risk because the substance would not be

released to surface waters in significant quantities. EPA has determined that other uses of the substance may result in releases to surface waters which exceed the concern concentration. Based on this information the PMN substances meet the concern criteria at § 721.170(b)(4)(ii).

Recommended testing: EPA has determined that a chronic 60-day fish early life stage toxicity test in rainbow trout (40 CFR 797.1600 or OPPTS 850.1400 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), a 21-day daphnid chronic toxicity test (40 CFR 797.1330 or OPPTS 850.1300 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), and an algal acute toxicity study (40 CFR 797.1050 or OPPTS 850.5400 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)) would help characterize the environmental effects of the PMN substance.

CFR citation: 40 CFR 721.9499.

PMN Number P–96–1652

Chemical name: Phosphinothioic acid, bis(2,4,4-trimethylpentyl)- (9Cl).

CAS number: 132767–86–3.

Basis for action: The PMN substance will be used as a solvent extraction reagent. Based on analogy to phosphate-based dialkyl anionic surfactants and neutral organics, EPA is concerned that toxicity to aquatic organisms may occur at a concentration as low as 10 ppb of the PMN substance in surface waters. EPA determined that use of the substance as described in the PMN did not present an unreasonable risk because the substance would not be released to surface waters in significant quantities. EPA has determined that other uses of the substance may result in releases to surface waters which exceed the concern concentration. Based on this information the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).

Recommended testing: EPA has determined that a chronic 60-day fish early life stage toxicity test in rainbow trout (40 CFR 797.1600 or OPPTS 850.1400 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), a 21-day daphnid chronic toxicity test (40 CFR 797.1330 or OPPTS 850.1300 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), and an algal acute toxicity study (40 CFR 797.1050 or OPPTS 850.5400 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)) would help characterize the environmental effects of the PMN substance.

CFR citation: 40 CFR 721.6045.

PMN Numbers P–96–1661/95–1654

Chemical name: (generic) Alkoxysilane ester.

CAS number: Not available.

Basis for action: The PMN substance will be used in coatings and as a filler. EPA determined that use of the substance as described in the PMN did not present an unreasonable risk because it did not result in significant human exposure. EPA has determined that increased use of the substance may result in significant human exposure.

Recommended testing: EPA has determined that a 90-day subchronic inhalation toxicity study in rats (40 CFR 799.9346) (62 FR 43828, August 15, 1997) (FRL–5719–5) would help characterize the health effects of the PMN substance.

CFR citation: 40 CFR 721.537.

PMN Numbers P–97–57/58/59/60/61

Chemical name: (generic) Alkyl substituted quaternary ammonium chloride.

CAS number: Not available.

Basis for action: The PMN substances will be used as surface active agents. Based on submitted test data and analogy to monoalkyl quaternary surfactants EPA is concerned that toxicity to aquatic organisms may occur at a concentration as low as 4 ppb of the PMN substances in surface waters. EPA determined that use of the substances as described in the PMNs did not present an unreasonable risk because the substances would not be released to surface waters during manufacturing and processing. EPA has determined that other uses of the substances may result in releases to surface waters which exceed the concern concentration. Based on this information the PMN substances meet the concern criteria at § 721.170 (b)(4)(i) and (b)(4)(ii).

Recommended testing: EPA has determined that a fish acute toxicity study (40 CFR 797.1400 or OPPTS 850.1075 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), a daphnid acute toxicity study (40 CFR 797.1300 or OPPTS 850.1010 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), and an algal acute toxicity study (40 CFR 797.1050 or OPPTS 850.5400 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)) would help characterize the environmental effects of the PMN substances.

CFR citation: 40 CFR 721.658.

PMN Number P–97–131

Chemical name: 2,7-Naphthalenedisulfonic acid, 4-amino-3-[[4′[[2-amino-4-[(3-butoxy-2-hydroxypropyl)amino]phenyl]azo]-3,3′-dimethyl[1,1′-biphenyl]-4-yl]azo]-5-hydroxy-6-(phenylazo)-, disodium salt.

CAS number: 103580–64–9.

Basis for action: The PMN substance will be used in ball point pen ink. Based on potential dimethylbenzidine, aniline, and triaminobenzene azo reduction products there is concern for oncogenicity, mutagenicity, developmental toxicity, liver toxicity, blood toxicity, and neurotoxicity. EPA determined that use of the substance as described in the PMN did not present an unreasonable risk because the substance would not be released to surface waters in significant amounts and workers would not be exposed by inhalation. EPA has determined that domestic manufacture, use as a powder, or additional releases to surface water may result in drinking water exposure or inhalation exposure to workers. Based on this information the PMN substance meets the concern criteria at § 721.170 (b)(1)(i)(D) and (b)(3)(iii).

Recommended testing: EPA has determined that a 2-year, two-species oral bioassay (40 CFR 799.9420) (62 FR 43838, August 15, 1997) (FRL–5719–5), a 90-day subchronic inhalation study in rats (40 CFR 798.2650 or OPPTS 870.3100 test guideline (public draft; 61 FR 31522, June 20, 1996) (FRL–5367–7)), and a two-species oral developmental toxicity test (40 CFR 799.9370) (62 FR 43832, August 15, 1997) (FRL–5719–5) would characterize the human health effects of the PMN substance.

CFR citation: 40 CFR 721.5279.

PMN Number P–97–136

Chemical name: (generic) Alkoxylated fatty acid amide alkylsulfate salt.

CAS number: Not available.

Basis for action: The PMN substance will be used to soften cellulose. Based on analogy to dialkyl cationic surfactants EPA is concerned that toxicity to aquatic organisms may occur at a concentration as low as 2 ppb of the PMN substance in surface waters. EPA determined that industrial uses of the substance did not present an unreasonable risk because it did not result in significant environmental exposure. EPA has determined that non-industrial uses may result in significant environmental exposure. Based on this information the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).

Recommended testing: EPA has determined that a fish acute toxicity study (40 CFR 797.1400 or OPPTS 850.1075 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–

1)), a daphnid acute toxicity study (40 CFR 797.1300 or OPPTS 850.1010 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), and an algal acute toxicity study (40 CFR 797.1050 or OPPTS 850.5400 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)) would help characterize the environmental effects of the PMN substance.
CFR citation: 40 CFR 721.720.

PMN Numbers P–97–143/144

Chemical name: (generic) Polymers of styrene, cyclohexyl methacrylate and substituted methacrylate.
CAS number: Not available.
Basis for action: The PMN substances will be used as coating resins. Based on analogy to structurally similar substances, there is concern for oncogenicity, mutagenicity, reproductive toxicity in males, developmental toxicity, lung and skin sensitization, and membrane irritation. EPA determined that use of the substances as described in the PMN did not present an unreasonable risk because significant worker exposure is not expected. EPA has determined that domestic manufacture may result in significant inhalation exposure to workers. Based on this information the PMN substances meets the concern criteria at § 721.170(b)(1)(i)(C) and (b)(3)(ii).
Recommended testing: EPA has determined that a 2-year, two-species oral bioassay (40 CFR 799.9420) (62 FR 43838, August 15, 1997) (FRL–5719–5), a 90-day subchronic inhalation study in rats (40 CFR 798.2650 or OPPTS 870.3100 test guideline (public draft; 61 FR 31522, June 20, 1996) (FRL–5367–7)), and a two-species oral developmental toxicity test (40 CFR 799.9370) (62 FR 43832, August 15, 1997) (FRL–5719–5) would characterize the human health effects of the PMN substances.
CFR citation: 40 CFR 721.9492.

PMN Number P–97–193

Chemical name: 2,7-Naphthalenedisulfonic acid, 4-amino-5-hydroxy-, coupled with diazotized 4-butylbenzenamine, diazotized 4,4′-cyclohexylidenebis[benzenamine] and m-phenylenediamine, sodium salt.
CAS number: 182238–09–1.
Basis for action: The PMN substance will be used in ink. Based on potential aniline and triaminobenzene azo reduction products and submitted test data, there is concern for oncogenicity, mutagenicity, and blood toxicity. EPA determined that use of the substance as described in the PMN did not present an unreasonable risk because workers would not be exposed by inhalation. EPA has determined that domestic manufacture and use as a powder, may result in inhalation exposure to workers. Based on this information the PMN substance meets the concern criteria at § 721.170 (b)(1)(i)(D) and (b)(3)(iii).
Recommended testing: EPA has determined that a 2-year, two-species oral bioassay (40 CFR 799.9420) (62 FR 43838, August 15, 1997) (FRL–5719–5) and a 90-day subchronic inhalation study in rats (40 CFR 798.2650 or OPPTS 870.3100 test guideline (public draft; 61 FR 31522, June 20, 1996) (FRL–5367–7)) would characterize the human health effects of the PMN substance.
CFR citation: 40 CFR 721.5280.

PMN Number P–97–217

Chemical name: 1H-Imidazole, 2-ethyl-4,5-dihydro-4-methyl-.
CAS number: 931–35–1.
Basis for action: The PMN substance will be used as an epoxy catalyst. Based on analogy to aliphatic amines, EPA is concerned that toxicity to aquatic organisms may occur at a concentration as low as 40 ppb of the PMN substance in surface waters. EPA determined that use of the substance as described in the PMN did not present an unreasonable risk because the substance would not be released to surface waters in significant quantities. EPA has determined that other uses of the substance may result in releases to surface waters which exceed the concern concentration. Based on this information the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).
Recommended testing: EPA has determined that a fish acute toxicity study (40 CFR 797.1400 or OPPTS 850.1075 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), a daphnid acute toxicity study (40 CFR 797.1300 or OPPTS 850.1010 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), and an algal acute toxicity study (40 CFR 797.1050 or OPPTS 850.5400 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)) would help characterize the environmental effects of the PMN substance.
CFR citation: 40 CFR 721.4468.

PMN Number P–97–264

Chemical name: Silane, (3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,10-heptadecafluorodecyl)trimethoxy-.
CAS number: 83048–65–1.
Basis for action: The PMN substance will be used in coatings, plastics, and greases. Based on analogy to alkoxysilanes, EPA is concerned that toxicity to aquatic organisms may occur at a concentration as low as 10 ppb of the PMN substance in surface waters. Based on analogy to alkoxysilanes and perfluoro compounds, there is concern for lung toxicity, irritation to mucuous membranes, liver toxicity, blood toxicity, immunosuppression, and reproductive toxicity. EPA determined that use of the substance as described in the PMN did not present an unreasonable risk because the substance would not be released to surface waters and workers would not be exposed by inhalation. EPA has determined that other uses of the substance may result in inhalation exposures to workers and releases to surface waters which exceed the concern concentration. Based on this information the PMN substance meet the concern criteria at § 721.170 (b)(3)(ii) and (b)(4)(ii).
Recommended testing: EPA has determined that a fish acute toxicity study (40 CFR 797.1400 or OPPTS 850.1075 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), a daphnid acute toxicity study (40 CFR 797.1300 or OPPTS 850.1010 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), and an algal acute toxicity study (40 CFR 797.1050 or OPPTS 850.5400 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)) would help characterize the environmental effects of the PMN substance. EPA has also determined that a 2-year, two-species oral bioassay (40 CFR 799.9420) (62 FR 43838, August 15, 1997) (FRL–5719–5), a 90-day subchronic inhalation study in rats (40 CFR 798.2650 or OPPTS 870.3100 test guideline (public draft; 61 FR 31522, June 20, 1996) (FRL–5367–7)), and an oral reproductive toxicity test in rats (40 CFR 799.9380) (62 FR 43834, August 15, 1997) (FRL–5719–5) would help characterize the health effects of the PMN substance.
CFR citation: 40 CFR 721.9503.

PMN Number P–97–302

Chemical name: Hexadecanoic acid, ethenyl ester.
CAS number: 693–38–9.
Basis for action: The PMN substance will be used as a component in adhesive formulations. Based on analogy to vinyl acetate and other similar substances, there is concern for neurotoxicity, mutagencity, oncogenicity, liver toxicity, developmental toxicity and reproductive toxicity. EPA determined that use of the substance as described in the PMN did not present an unreasonable risk because workers would not be subject to significant exposures. EPA has determined that other use of the substance may result in significant exposures to workers. Based on this information the PMN substance

meets the concern criteria at § 721.170 (b)(1)(i)(C) and (b)(3)(ii).
Recommended testing: EPA has determined that a 2-year, two-species oral bioassay (40 CFR 799.9420) (62 FR 43838, August 15, 1997) (FRL–5719–5), a 90-day subchronic oral study in rats (40 CFR 798.2650 or OPPTS 870.3100 test guideline (public draft; 61 FR 31522, June 20, 1996) (FRL–5367–7)), an oral two-species developmental toxicity test (40 CFR 799.9370) (62 FR 43832, August 15, 1997) (FRL–5719–5), and an oral reproductive toxicity test in rats (40 CFR 799.9380) (62 FR 43834, August 15, 1997) (FRL–5719–5) would help characterize the health effects of the PMN substance.
CFR citation: 40 CFR 721.4158.

PMN Number P–97–304

Chemical name: (generic) Disubstituted thiadiazolsulfone.
CAS number: Not available.
Basis for action: The PMN substance will be used in an enclosed use. Based on analogy to *N*-heterocycles there are concerns for developmental toxicity. Based on submitted toxicity data there are concerns for neurotoxicity, mutagenicity, and irritation to eyes, lungs, and mucous membranes . EPA determined that use of the substance as described in the PMN did not present an unreasonable risk because workers would not be subject to significant exposures. EPA has determined that uses of the substance in a non-enclosed process and other than for the specific use designated in the PMN may result in significant exposures to workers. Based on this information the PMN substance meet the concern criteria at § 721.170 (b)(3)(i) and (b)(3)(ii).
Recommended testing: EPA has determined that a 90-day subchronic oral study in rats (40 CFR 798.2650 or OPPTS 870.3100 test guideline (public draft; 61 FR 31522, June 20, 1996) (FRL–5367–7)) and a two-species oral developmental toxicity test (40 CFR 799.9370) (62 FR 43832, August 15, 1997) (FRL–5719–5) would characterize the human health effects of the PMN substance.
CFR citation: 40 CFR 721.9659.

PMN Number P–97–314

Chemical name: (generic) Disubstituted thiadiazole.
CAS number: Not available.
Basis for action: The PMN substance will be used in an enclosed use. Based on analogy to *N*-heterocycles there are concerns for developmental toxicity. Based on submitted toxicity data there are concerns for neurotoxicity, mutagenicity, and irritation to eyes, lungs, and mucous membranes. EPA determined that use of the substance as described in the PMN did not present an unreasonable risk because workers would not be subject to significant exposures. EPA has determined that uses of the substance in a non-enclosed process and other than for the specific use designated in the PMN may result in significant exposures to workers. Based on this information the PMN substance meet the concern criteria at § 721.170 (b)(3)(i) and (b)(3)(ii).
Recommended testing: EPA has determined that a 90-day subchronic oral study in rats (40 CFR 798.2650 or OPPTS 870.3100 test guideline (public draft; 61 FR 31522, June 20, 1996) (FRL–5367–7)) and a two-species oral developmental toxicity test (40 CFR 799.9370) (62 FR 43832, August 15, 1997) (FRL–5719–5) would characterize the human health effects of the PMN substance.
CFR citation: 40 CFR 721.9657.

PMN Number P–97–328

Chemical name: (generic) Ethylenediamine, substituted, sodium salt.
CAS number: Not available.
Basis for action: The PMN substance will be used as an intermediate. Based on analogy to polyanionic monomers and *n*-halo-nitro compounds, EPA is concerned that toxicity to aquatic organisms may occur at a concentration as low as 30 ppb of the PMN substance in surface waters. EPA determined that use of the substance as described in the PMN did not present an unreasonable risk because significant releases of the substance is not expected to surface waters. EPA has determined that uses other than as an intermediate may result in releases to surface waters which exceed the concern concentration. Based on this information the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).
Recommended testing: EPA has determined that a fish acute toxicity study (40 CFR 797.1400 or OPPTS 850.1075 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), a daphnid acute toxicity study (40 CFR 797.1300 or OPPTS 850.1010 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), and an algal acute toxicity study (40 CFR 797.1050 or OPPTS 850.5400 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)) would help characterize the environmental effects of the PMN substance.
CFR citation: 40 CFR 721.3565.

PMN Number P–97–417

Chemical name: (generic) Potassium salt of polyolefin acid.
CAS number: Not available.
Basis for action: The PMN substance will be used as a fuel additive. Based on analogy to fatty acid anionic surfactants, EPA is concerned that toxicity to aquatic organisms may occur at a concentration as low as 800 ppb of the PMN substance in surface waters. EPA determined that use of the substance as described in the PMN did not present an unreasonable risk because significant releases of the substance is not expected to surface waters. EPA has determined that uses other than as a fuel additive may result in releases to surface waters which exceed the concern concentration. Based on this information the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).
Recommended testing: EPA has determined that a fish acute toxicity study (40 CFR 797.1400 or OPPTS 850.1075 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), a daphnid acute toxicity study (40 CFR 797.1300 or OPPTS 850.1010 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)), and an algal acute toxicity study (40 CFR 797.1050 or OPPTS 850.5400 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1)) would help characterize the environmental effects of the PMN substance.
CFR citation: 40 CFR 721.7375.

IV. Objectives and Rationale of the Rule

During review of the PMNs submitted for the chemical substances that are subject to this SNUR, EPA concluded that for 25 of the 163 substances, regulation was warranted under section 5(e) of TSCA, pending the development of information sufficient to make reasoned evaluations of the health or environmental effects of the substances. The basis for such findings is outlined in Unit III. of this preamble. Based on these findings, TSCA section 5(e) consent orders requiring the use of appropriate controls were negotiated with the PMN submitters; the SNUR provisions for these substances designated herein are consistent with the provisions of the TSCA section 5(e) orders.

In the other 138 cases for which the proposed uses are not regulated under a TSCA section 5(e) order, EPA determined that one or more of the criteria of concern established at 40 CFR 721.170 were met.

EPA is issuing this SNUR for specific chemical substances which have undergone premanufacture review to ensure that:

(1) EPA will receive notice of any company's intent to manufacture,

import, or process a listed chemical substance for a significant new use before that activity begins.

(2) EPA will have an opportunity to review and evaluate data submitted in a SNUR notice before the notice submitter begins manufacturing, importing, or processing a listed chemical substance for a significant new use.

(3) When necessary to prevent unreasonable risks EPA will be able to regulate prospective manufacturers, importers, or processors of a listed chemical substance before a significant new use of that substance occurs.

(4) All manufacturers, importers, and processors of the same chemical substance which is subject to a TSCA section 5(e) order are subject to similar requirements. Issuance of a SNUR for a chemical substance does not signify that the substance is listed on the TSCA Inventory. Manufacturers, importers, and processors are responsible for ensuring that a new chemical substance subject to a final SNUR is listed on the TSCA Inventory.

V. Direct Final Procedures

EPA is issuing these SNURs as direct final rules, as described in 40 CFR 721.160(c)(3) and 721.170(d)(4). In accordance with 40 CFR 721.160(c)(3)(ii), this rule will be effective March 23, 1998, unless EPA receives a written notice by February 23, 1998 that someone wishes to make adverse or critical comments on EPA's action. If EPA receives such a notice, EPA will publish a notice to withdraw the direct final SNUR for the specific substance to which the adverse or critical comments apply. EPA will then propose a SNUR for the specific substance providing a 30-day comment period.

This action establishes SNURs for a number of chemical substances. Any person who submits a notice of intent to submit adverse or critical comments must identify the substance and the new use to which it applies. EPA will not withdraw a SNUR for a substance not identified in a notice.

VI. Test Data and Other Information

EPA recognizes that section 5 of TSCA does not require developing any particular test data before submission of a SNUN. Persons are required only to submit test data in their possession or control and to describe any other data known to or reasonably ascertainable by them. In cases where a TSCA section 5(e) order requires or recommends certain testing, Unit III. of this preamble lists those recommended tests.

However, EPA has established production limits in the TSCA section 5(e) orders for several of the substances regulated under this rule, in view of the lack of data on the potential health and environmental risks that may be posed by the significant new uses or increased exposure to the substances. These production limits cannot be exceeded unless the PMN submitter first submits the results of toxicity tests that would permit a reasoned evaluation of the potential risks posed by these substances. Under recent consent orders, each PMN submitter is required to submit each study at least 14 weeks (earlier orders required submissions at least 12 weeks) before reaching the specified production limit. Listings of the tests specified in the TSCA section 5(e) orders are included in Unit III. of this preamble. The SNURs contain the same production volume limits as the consent orders. Exceeding these production limits is defined as a significant new use.

The recommended studies may not be the only means of addressing the potential risks of the substance. However, SNUNs submitted for significant new uses without any test data may increase the likelihood that EPA will take action under TSCA section 5(e), particularly if satisfactory test results have not been obtained from a prior submitter. EPA recommends that potential SNUN submitters contact EPA early enough so that they will be able to conduct the appropriate tests.

SNUN submitters should be aware that EPA will be better able to evaluate SNUNs which provide detailed information on:

(1) Human exposure and environmental release that may result from the significant new use of the chemical substances.

(2) Potential benefits of the substances.

(3) Information on risks posed by the substances compared to risks posed by potential substitutes.

VII. Procedural Determinations

EPA is establishing through this rule some significant new uses which have been claimed as CBI subject to Agency confidentiality regulations at 40 CFR part 2. EPA is required to keep this information confidential to protect the CBI of the original PMN submitter. EPA promulgated a procedure to deal with the situation where a specific significant new use is CBI. This procedure appears in 40 CFR 721.1725(b)(1) and is similar to that in § 721.11 for situations where the chemical identity of the substance subject to a SNUR is CBI. This procedure is cross-referenced in each of these SNURs.

A manufacturer or importer may request EPA to determine whether a proposed use would be a significant new use under this rule. Under the procedure incorporated from § 721.1725(b)(1), a manufacturer or importer must show that it has a *bona fide* intent to manufacture or import the substance and must identify the specific use for which it intends to manufacture or import the substance. If EPA concludes that the person has shown a *bona fide* intent to manufacture or import the substance, EPA will tell the person whether the use identified in the *bona fide* submission would be a significant new use under the rule. Since most of the chemical identities of the substances subject to these SNURs are also CBI, manufacturers and processors can combine the *bona fide* submission under the procedure in § 721.1725(b)(1) with that under § 721.11 into a single step.

If a manufacturer or importer is told that the production volume identified in the *bona fide* submission would not be a significant new use, i.e. it is below the level that would be a significant new use, that person can manufacture or import the substance as long as the aggregate amount does not exceed that identified in the *bona fide* submission to EPA. If the person later intends to exceed that volume, a new *bona fide* submission would be necessary to determine whether that higher volume would be a significant new use. EPA is considering whether to adopt a special procedure for use when CBI production volume is designated as a significant new use. Under such a procedure, a person showing a *bona fide* intent to manufacture or import the substance, under the procedure described in § 721.11, would automatically be informed of the production volume that would be a significant new use. Thus the person would not have to make multiple *bona fide* submissions to EPA for the same substance to remain in compliance with the SNUR, as could be the case under the procedures in § 721.1725(b)(1).

VIII. Applicability of Rule to Uses Occurring Before Effective Date of the Final Rule

To establish a significant ''new'' use, EPA must determine that the use is not ongoing. The chemical substances subject to this rule have recently undergone premanufacture review. TSCA section 5(e) orders have been issued for 24 substances and notice submitters are prohibited by the TSCA section 5(e) orders from undertaking activities which EPA is designating as significant new uses. In cases where EPA has not received a NOC and the substance has not been added to the TSCA Inventory, no other person may commence such activities without first submitting a PMN. For substances for which an NOC has not been submitted

at this time, EPA has concluded that the uses are not ongoing. However, EPA recognizes in cases when chemical substances identified in this SNUR are added to the TSCA Inventory prior to the effective date of the rule, the substances may be manufactured, imported, or processed by other persons for a significant new use as defined in this rule before the effective date of the rule. However, 123 of the 163 substances contained in this rule have CBI chemical identities, and since EPA has received a limited number of post-PMN *bona fide* submissions, the Agency believes that it is highly unlikely that any of the significant new uses described in the following regulatory text are ongoing.

As discussed in the **Federal Register** of April 24, 1990 (55 FR 17376), EPA has decided that the intent of section 5(a)(1)(B) is best served by designating a use as a significant new use as of the date of publication rather than as of the effective date of the rule. Thus, persons who begin commercial manufacture, import, or processing of the substances regulated through this SNUR will have to cease any such activity before the effective date of this rule. To resume their activities, these persons would have to comply with all applicable SNUR notice requirements and wait until the notice review period, including all extensions, expires.

EPA has promulgated provisions to allow persons to comply with this SNUR before the effective date. If a person were to meet the conditions of advance compliance under § 721.45(h), the person would be considered to have met the requirements of the final SNUR for those activities. If persons who begin commercial manufacture, import, or processing of the substance between publication and the effective date of the SNUR do not meet the conditions of advance compliance, they must cease that activity before the effective date of the rule. To resume their activities, these persons would have to comply with all applicable SNUR notice requirements and wait until the notice review period, including all extensions, expires.

IX. Economic Analysis

EPA has evaluated the potential costs of establishing significant new use notice requirements for potential manufacturers, importers, and processors of the chemical substance subject to this rule. EPA's complete economic analysis is available in the public record for this rule (OPPTS–50628).

X. Public Record and Electronic Submissions

The official record for this rulemaking, as well as the public version, has been established for this rulemaking under docket control number OPPTS–50628 (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 in 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket control number OPPTS–50628. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries.

The OPPTS harmonized test guidelines referenced in this document are available on EPA's World Wide Web site under ''Researchers and Scientists,'' ''Environmental Test Methods & Guidelines'' (http://www.epa.gov/epahome/research.htm).

XI. Regulatory Assessment Requirements

Under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' subject to review by the Office of Management and Budget (OMB). In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described in the Unfunded Mandates Reform Act (UMRA) of 1995 (Pub. L. 104–4), or require prior consultation with State officials as also specified in Executive Order 12875, entitled ''Enhancing the Intergovernmental Partnership'' (58 FR 58093, October 28, 1993). Nor does it involve special considerations of environmental justice related issues as required by Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994), or additional OMB review in accordance with Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997).

According to the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq*., an agency may not conduct or sponsor, and a person is not required to respond to a collection of information that requires 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 information collection requirements related to this action have already been approved by OMB pursuant to the PRA under OMB control number 2070–0012 (EPA ICR No. 574). This action does not impose any burden requiring additional OMB approval.

If an entity were to submit a significant new use notice to the Agency, the annual burden is estimated to average between 30 and 170 hours per response. This burden estimate includes the time needed to review instructions, search existing data sources, gather and maintain the data needed, and complete, review and submit the required significant new use notice.

Send any comments about the accuracy of the burden estimate, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques, to the Director, OPPE Regulatory Information Division, U.S. Environmental Protection Agency (Mail Code 2137), 401 M Street, S.W., Washington, D.C. 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, but do not submit any completed forms to these addresses.

In addition, pursuant to section 605(b) of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq*.), the Agency has previously certified, as a generic matter, that the promulgation of a SNUR does not have a significant adverse economic impact on a substantial number of small entities. The Agency's generic certification for promulgation of new SNURs appears on June 2, 1997 (62 FR 29684) (FRL–5597–1), and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

XII. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, the Agency has submitted a report containing this rule and other required

information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the General Accounting Office prior to publication of this rule in today's **Federal Register**. This is not a major rule as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 721

Environmental protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements.

Dated: January 6, 1998.

Charles M. Auer,

Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

Therefore, 40 CFR part 721 is amended as follows:

PART 721—[AMENDED]

1. The authority citation for part 721 continues to read as follows:

Authority: 15 U.S.C. 2604, 2607, and 2625(c).

2. By adding new § 721.405 to subpart E to read as follows:

§ 721.405 Polyether acrylate.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as a polyether acrylate (PMN P–95–666) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90 (a)(1), (b)(1), and (c)(1).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

3. By adding new § 721.524 to subpart E to read as follows:

§ 721.524 Alcohols, C_{6-12}, ethoxylated, reaction product with maleic anhydride.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as alcohols, C_{6-12}, ethoxylated, reaction product with maleic anhydride (PMN P–88–1108) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90 (a)(4), (b)(4), and (c)(4) (N = 300).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

4. By adding new § 721.526 to subpart E to read as follows:

§ 721.526 Substituted aromatic aldehyde.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as a substituted aromatic aldehyde (PMN P–95–1466) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90 (a)(1), (b)(1), and (c)(1).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

5. By adding new § 721.528 to subpart E to read as follows:

§ 721.528 Benzaldehyde, 2-hydroxy-5-nonyl-, oxime, branched.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as benzaldehyde, 2-hydroxy-5-nonyl-, oxime, branched (PMN P–95–1467; CAS No. 174333–80–3) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90 (a)(1), (b)(1), and (c)(1).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

6. By adding new § 721.537 to subpart E to read as follows:

§ 721.537 Organosilane ester.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as an organosilane ester (PMN P–96–1661/P–95–1654) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(r) (370,000 kilogram (kg)) (90-day subchronic inhalation study in rats-(40 CFR 799.9346) (62 FR 43828, August 15, 1997) (FRL–5719–5). A person may not manufacture or import the substance beyond the aggregate production volume limit, unless that person conducts this study on the substance and submits all final reports and underlying data in accordance with the procedures and criteria specified in paragraphs (a)(2)(i)(A), (a)(2)(i)(B), (a)(2)(i)(C), and (a)(2)(i)(D) of this section.

(A) Each study required to be performed pursuant to this section must be scientifically valid. *Scientific valid* means that the study was conducted according to:

(*1*) The test guidelines specified in paragraph (a)(2)(i) of this section.

(*2*) An EPA-approved protocol.

(*3*) TSCA Good Laboratory Practice Standards at 40 CFR part 792.

(*4*) Using methodologies generally accepted at the time the study is initiated.

(*5*) Any deviation from these requirements must be approved in writing by EPA.

(B) Before starting to conduct any of the studies in paragraph (a)(2)(i) of this section, the person must obtain approval of test protocols from EPA by submitting written protocols. EPA will respond to the person within 4 weeks of receiving the written protocols. Published test guidelines specified in paragraph (a)(2)(i) of this section (e.g., 40 CFR part 797 or part 798) provide

general guidance for development of test protocols, but are not themselves acceptable protocols.

(C) The person shall:

(*1*) Conduct each study in good faith with due care.

(*2*) Promptly furnish to EPA the results of any interim phase of each study.

(*3*) Submit, in triplicate (with an additional sanitized copy, if confidential business information is involved), the final report of each study and all underlying data (''the report and data'') to EPA no later than 14 weeks prior to exceeding the applicable production volume limit. The final report shall contain the contents specified in 40 CFR 792.185.

(D)(*1*) Except as described in paragraph (a)(2)(i)(D)(*2*) of this section, if, within 6 weeks of EPA's receipt of a test report and data, the person receives written notice that EPA finds that the data generated by a study are scientifically invalid, the person is prohibited from further manufacture and import of the PMN substance beyond the applicable production volume limit.

(*2*) The person may continue to manufacture and import the PMN substance beyond the applicable production limit only if so notified, in writing, by EPA in response to the person's compliance with either of the following paragraphs (a)(2)(i)(D)(*2*)(*i*) or (a)(2)(i)(D)(*2*)(*ii*) of this section.

(*i*) The person may reconduct the study. If there is sufficient time to reconduct the study and submit the report and data to EPA at least 14 weeks before exceeding the production limit as required by paragraph (a)(2)(i)(C)(*3*) of this section, the person shall comply with paragraph (a)(2)(i)(C)(*3*) of this section. If there is insufficient time for the person to comply with paragraph (a)(2)(ii)(C)(*3*) of this section, the person may exceed the production limit and shall submit the report and data in triplicate to EPA within a reasonable period of time, all as specified by EPA in the notice described in paragraph (a)(2)(i)(D)(*1*) of this section. EPA will respond to the person in writing, within 6 weeks of receiving the person's report and data.

(*ii*) The person may, within 4 weeks of receiving from EPA the notice described in paragraph (a)(2)(i)(D)(*1*) of this section, submit to EPA a written report refuting EPA's finding. EPA will respond to the person in writing, within 4 weeks of receiving the person's report.

(E) The person is not required to conduct a study specified in paragraph (a)(2)(i) of this section if notified in writing by EPA that it is unnecessary to conduct that study.

(ii) [Reserved]

(b) *Specific requirements*. The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping*. Recordkeeping requirements as specified in § 721.125 (a), (b), (c) and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements*. The provisions of § 721.185 apply to this section.

7. By adding new § 721.538 to subpart E to read as follows:

§ 721.538 Phenol, 4-(1,1-dimethylethyl)-, homopolymer.

(a) *Chemical substance and significant new uses subject to reporting*. (1) The chemical substance identified as phenol, 4-(1,1-dimethylethyl)-, homopolymer (PMN P–95–243; CAS No. 30813–81–1) is subject to reporting under this section for the significant new uses described in paragraph (a)(3) of this section.

(2) *High moleculation weight exemption*. A batch of the chemical substance may be exempt from the provisions of this rule if the average number molecular weight of the substance is greater than 1,000 and the low molecular weight species below 1,000 and 500 are less than 25 percent and 10 percent, respectively. To be eligible for this exemption, the batch must be individually measured.

(3) The significant new uses are:

(i) *Hazard communication program*. Requirements as specified in § 721.72 (a), (b), (d), (f), (g)(3)(i), (g)(4)(i), and (g)(5). The label and material safety data sheet (MSDS) as required by this paragraph shall also include the following statement: This substance is toxic to aquatic invertebrate.

(ii) *Industrial, commercial, and consumer activites*. Requirements as specified in § 721.80(q).

(iii) *Release to water*. Requirements as specified in § 721.90 (a)(4) and (b)(4) (N = 9). When calculating the surface water concentrations according to the instructions in § 721.91, the statement that the amount of the substance that will be released will be calculated before the substance enters control technology does not apply. Instead, if the waste stream containing the substance will be treated using primary and secondary wastewater treatment with control of suspended solids, before release, then the amount of the substance reasonably likely to be removed from the waste stream by such treatment may be subtracted in calculating the number of kilograms released. No more than 95 percent removal efficiency may be attributed to such treatment. These requirements do not apply to the sites specifically exempted in the TSCA section 5(e) consent order for this substance.

(b) *Specific requirements*. The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping*. Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (f), (g), (h), (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements*. The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section*. The provisions of § 721.1725(b)(1) apply to this section.

8. By adding new § 721.539 to subpart E to read as follows:

§ 721.539 Poly(oxy-1,2-ethanediyl), α-sulfo-ω-[1-[(4-nonylphenoxy)methyl]-2-(2-propenyloxy)ethoxy]-, branched, ammonium salts.

(a) *Chemical substance and significant new uses subject to reporting*. (1) The chemical substance identified as Poly(oxy-1,2-ethanediyl), α-sulfo-ω-[1-[(4-nonylphenoxy)methyl]-2-(2-propenyloxy)ethoxy]-, branched, ammonium salts (PMN P–96–1240; CAS No. 184719–88–8) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities*. Requirements as specified in § 721.80(f).

(ii) [Reserved]

(b) *Specific requirements*. The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping*. Recordkeeping requirements as specified in § 721.125 (a) and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements*. The provisions of § 721.185 apply to this section.

9. By adding new § 721.567 to subpart E to read as follows:

§ 721.567 Mixed fatty alkylamines, salt.

(a) *Chemical substance and significant new uses subject to reporting*. (1) The chemical substance identified as mixed fatty alkylamines (PMN P–96–795) is subject to reporting under this

section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90 (a)(1), (b)(1), and (c)(1).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

10. By adding new § 721.637 to subpart E to read as follows:

§ 721.637 Hydrochloride salt of a mixed fatty amidoamine.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as a hydrochloride salt of a mixed fatty amidoamine (PMN P–96–1588) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90 (a)(1), (b)(1), and (c)(1).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

11. By adding new § 721.640 to subpart E to read as follows:

§ 721.640 Amine substituted metal salts.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substances identified generically as amine substituted metal salts (PMNs P–96–1337/1338/1339) are subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90 (a)(4), (b)(4), and (c)(4) (N = 4).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of these substances.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

12. By adding new § 721.641 to subpart E to read as follows:

§ 721.641 Alkylpoly(oxyalkylene)amine.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as a alkylpoly(oxyalkylene)amine (PMN P–96–1430) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(g).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c) and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

13. By adding new § 721.643 to subpart E to read as follows:

§ 721.643 Ethoxylated alcohol, phosphated, amine salt.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as an ethoxylated alcohol, phosphated, amine salt (PMN P–96–1478) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90 (a)(4), (b)(4), and (c)(4) (N = 8).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

14. By adding new § 721.655 to subpart E to read as follows:

§ 721.655 Ethoxylated alkyl quaternary ammonium compound.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as an ethoxylated alkyl quaternary ammonium compound (PMN P–96–573) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial and consumer activities.* Requirements as specified in § 721.80(j).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

15. By adding new § 721.658 to subpart E to read as follows:

§ 721.658 Alkyl substituted quaternary ammoniums.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substances identified generically as alkyl substituted quaternary ammoniums (PMNs P–97–57/58/59/60/61) are subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90 (b)(1) and (c)(1).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

16. By adding new § 721.720 to subpart E to read as follows:

§ 721.720 Alkoxylated fatty acid amide, alkylsulfate salt.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as an alkoxylated fatty acid amide, alkylsulfate salt (PMN P–97–136) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(l).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c) and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

17. By adding new § 721.723 to subpart E to read as follows:

§ 721.723 Anthraquinone dye.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as an anthraquinone dye (PMN P–94–2159) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90 (a)(1), (b)(1), and (c)(1).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

18. By adding new § 721.977 to subpart E to read as follows:

§ 721.977 Aryloxyarene.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as aryloxyarene (PMN P–92–314) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Hazard communication program.* Requirements as specified in § 721.72 (a), (b), (c), (d), (f), (g)(3)(ii), (g)(4)(iii), and (g)(5). The label and MSDS as required by this paragraph shall also include the following statement: This substance may be toxic to sediment organisms.

(ii) *Release to water.* Requirements as specified in § 721.90 (a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (f), (g), (h), (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

19. By adding new § 721.980 to subpart E to read as follows:

§ 721.980 Sodium salt of azo acid dye.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as a sodium salt of azo acid dye (PMN P–95–633) is subject to eporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80 (v)(1), (w)(1), and (x)(1).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

20. By adding new § 721.981 to subpart E to read as follows:

§ 721.981 Substituted naphtholoazo-substituted naphthalenyl-substituted azonaphthol chromium complex.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as a substituted naphtholoazo-substituted naphthalenyl-substituted azonaphthol chromium complex (PMN P–93–1631) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80 (f), (v)(2), (w)(2), and (x)(2).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

21. By adding new § 721.1105 to subpart E to read as follows:

§ 721.1105 Benzenamine, 4,4′-methylenebis[2-methyl-6-(1-methylethyl)]-.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as benzenamine, 4,4′-methylenebis[2-methyl-6-(1-methylethyl)]- (PMN P–96–93; CAS No. 16298–38–7) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90 (a)(1), (b)(1), and (c)(1).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

22. By adding new § 721.1155 to subpart E to read as follows:

§ 721.1155 1,4-benzenediol, 2-(1,1,3,3-tetramethylbutyl)-and Bis(dimethylamino substituted)carbomonocycle.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as 1,4-benzenediol, 2-(1,1,3,3-tetramethylbutyl)- and Bis

(dimethylamino substituted)carbomonocycle (PMN P–96–92) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water*. Requirements as specified in § 721.90 (a)(4), (b)(4), and (c)(4) (N = 1).

(ii) [Reserved]

(b) *Specific requirements*. The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping*. Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements*. The provisions of § 721.185 apply to this section.

23. By adding new § 721.1705 to subpart E to read as follows:

§ 721.1705 Benzoic acid, 3-amino-, diazotized, coupled with 6-amino-4-hydroxy-2-naphthalenesulfonic acid, diazotized, (3-aminophenyl)phosphonic acid and diazotized 2,5-diethoxybenzenamine.

(a) *Chemical substance and significant new uses subject to reporting*. (1) The chemical substance generically identified as benzoic acid, 3-amino-, diazotized, coupled with 6-amino-4-hydroxy-2-naphthalenesulfonic acid, diazotized, (3-amino-phenyl)phosphonic acid and diazotized 2,5-diethoxybenzenamine (PMN P–96–1216; CAS No. 163879–69–4) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities*. Requirements as specified in § 721.80 (v)(1), (w)(1), and (x)(1).

(ii) [Reserved]

(b) *Specific requirements*. The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping*. Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements*. The provisions of § 721.185 apply to this section.

24. By adding new § 721.1805 to subpart E to read as follows:

§ 721.1805 Substituted bisaniline.

(a) *Chemical substance and significant new uses subject to reporting*. (1) The chemical substance identified generically as a substituted bisaniline (PMN P–96–1410) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water*. Requirements as specified in § 721.90 (a)(4), (b)(4), and (c)(4) (N = 4).

(ii) [Reserved]

(b) *Specific requirements*. The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping*. Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements*. The provisions of § 721.185 apply to this section.

25. By adding new § 721.1930 to subpart E to read as follows:

§ 721.1930 Butanoic acid, antimony (3+) salt.

(a) *Chemical substance and significant new uses subject to reporting*. (1) The chemical substance identified as butanoic acid, antimony (3+) salt (PMN P–94–1143; CAS No. 53856–17–0) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace*. Requirements as specified in § 721.63 (a)(1), (a)(2)(i), (a)(3), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program*. Requirements as specified in § 721.72 (a), (b), (c), (d), (e) (concentration set at 0.1 percent), (g)(1)(i), (g)(1)(vi), (g)(1)(vii), (g)(1)(ix), (g)(2)(i), (g)(2)(v), and (g)(5). The label and MSDS as required by this paragraph shall also include the following statement: This substance may cause neurologic effects. This substance may cause cardiovascular effects. This substance may cause ocular irritation.

(iii) *Industrial, commercial, and consumer activities*. Requirements as specified in § 721.80(p) (675,000 kg).

(b) *Specific requirements*. The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping*. Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (d), (e), (f), (g), (h), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements*. The provisions of § 721.185 apply to this section.

26. By adding new § 721.2082 to subpart E to read as follows:

§ 721.2082 Derivative of substituted carbomonocyclic carboxylic acid-amine distillation stream byproduct reaction product.

(a) *Chemical substance and significant new uses subject to reporting*. (1) The chemical substance identified generically as a derivative of substituted carbomonocyclic carboxylic acid-amine distillation stream byproduct reaction product (PMN P–96–866) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water*. Requirements as specified in § 721.90 (a)(1), (b)(1), and (c)(1).

(ii) [Reserved]

(b) *Specific requirements*. The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping*. Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements*. The provisions of § 721.185 apply to this section.

27. By adding new § 721.2091 to subpart E to read as follows:

§ 721.2091 Chloroalkane.

(a) *Chemical substance and significant new uses subject to reporting*. (1) The chemical substance identified generically as a chloroalkane (PMN P–96–273) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities*. Requirements as specified in § 721.80(g).

(ii) [Reserved]

(b) *Specific requirements*. The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping*. Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements*. The provisions of § 721.185 apply to this section.

28. By adding new § 721.2094 to subpart E to read as follows:

§ 721.2094 N,N′-di(alkyl heteromonocycle)amino chlorotriazine.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as *N,N′*-di(alkyl heteromonocycle)amino chlorotriazine (PMN P–93–1369) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63 (a)(4), (a)(5)(i) (this respirator meets the minimum requirement for persons exposed via inhalation during manufacture), (a)(5)(ii), (a)(5)(iv), (a)(5)(v) (these three respirators meet the minimum requirements for persons exposed via inhalation during processing and use), (a)(6)(i), (a)(6)(ii), (a)(6)(iii), (a)(6)(iv), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (g)(1)(iv), (g)(1)(vii), (g)(1)(viii), (g)(1)(ix), (g)(2)(ii), (g)(2)(iii), (g)(2)(iv), (g)(3)(i), (g)(3)(ii), (g)(4)(iii), and (g)(5).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(q).

(iv) *Release to water.* Requirements as specified in § 721.90 (a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (d), (f), (g), (h), (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to this section.

29. By adding new § 721.2122 to subpart E to read as follows:

§ 721.2122 Substituted phenyl azo substituted sulfo carbopolycycle.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as a substituted phenyl azo substituted sulfo carbopolycycle (PMN P–96–702) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(r) (204,000 kg) (activated sludge adsorption isotherm-OPPTS 835.1110 test guideline (public draft; 61 FR 16486, April 15, 1996) (FRL–5363–1), daphnid acute toxicity-§ 797.1300, fish acute toxicity-§ 797.1400, murine immune allergic response study (*Toxicology and Applied Pharmacology* 112:190–197 (1992)). A person may not manufacture or import the substance beyond the following aggregate production volume limits, unless that person conducts the following corresponding studies on the substance and submits all final reports and underlying data in accordance with the procedures and criteria specified in paragraphs (a)(2)(i)(A), (a)(2)(i)(B), (a)(2)(i)(C), and (a)(2)(i)(D) of this section.

(A) Each study required to be performed pursuant to this section must be scientifically valid. *Scientifically valid* means that the study was conducted according to:

(*1*) The test guidelines specified in paragraph (a)(2)(i) of this section.

(*2*) An EPA-approved protocol.

(*3*) TSCA Good Laboratory Practice Standards at 40 CFR part 792.

(*4*) Using methodologies generally accepted at the time the study is initiated.

(*5*) Any deviation from these requirements must be approved in writing by EPA.

(B) Before starting to conduct any of the studies in paragraph (a)(2)(i) of this section, the person must obtain approval of test protocols from EPA by submitting written protocols. EPA will respond to the person within 4 weeks of receiving the written protocols. Published test guidelines specified in paragraph (a)(2)(i) of this section (e.g., 40 CFR part 797 or part 798) provide general guidance for development of test protocols, but are not themselves acceptable protocols.

(C) The person shall:

(*1*) Conduct each study in good faith with due care.

(*2*) Promptly furnish to EPA the results of any interim phase of each study.

(*3*) Submit, in triplicate (with an additional sanitized copy, if confidential business information is involved), the final report of each study and all underlying data (''the report and data'') to EPA no later than 14 weeks prior to exceeding the applicable production volume limit. The final report shall contain the contents specified in 40 CFR 792.185.

(D)(*1*) Except as described in paragraph (a)(2)(i)(D)(*2*) of this section, if, within 6 weeks of EPA's receipt of a test report and data, the person receives written notice that EPA finds that the data generated by a study are scientifically invalid, the person is prohibited from further manufacture and import of the PMN substance beyond the applicable production volume limit.

(*2*) The person may continue to manufacture and import the PMN substance beyond the applicable production limit only if so notified, in writing, by EPA in response to the person's compliance with either of the following paragraph (a)(2)(i)(D)(*2*)(*i*) or (a)(2)(i)(D)(*2*)(*ii*) of this section.

(*i*) The person may reconduct the study. If there is sufficient time to reconduct the study and submit the report and data to EPA at least 14 weeks before exceeding the production limit as required by paragraph (a)(2)(i)(C)(*3*) of this section, the person shall comply with paragraph (a)(2)(i)(C)(*3*) of this section. If there is insufficient time for the person to comply with paragraph (a)(2)(i)(C)(*3*) of this section, the person may exceed the production limit and shall submit the report and data in triplicate to EPA within a reasonable period of time, all as specified by EPA in the notice described in paragraph (a)(2)(i)(D)(*1*) of this section. EPA will respond to the person in writing, within 6 weeks of receiving the person's report and data.

(*ii*) The person may, within 4 weeks of receiving from EPA the notice described in paragraph (a)(2)(i)(D)(*1*) of this section, submit to EPA a written report refuting EPA's finding. EPA will respond to the person in writing, within 4 weeks of receiving the person's report.

(E) The person is not required to conduct a study specified in paragraph (a)(2)(i) of this section if notified in writing by EPA that it is unnecessary to conduct that study.

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

30. By adding new § 721.2145 to subpart E to read as follows:

§ 721.2145 Ceteareth-25 sorbate.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as ceteareth-25 sorbate (PMN P–96–941) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(g).

(ii) [Reserved]

(b) *Specific requirements.* The provision of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

31. By adding new § 721.2222 to subpart E to read as follows:

§ 721.2222 Cyclohexanamine, N,N-dimethyl-, compd. with alpha-isotridecyl-omega-hydroxypoly(oxy-1,2-ethanediyl) phosphate.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as cyclohexanamine, *N,N*-dimethyl-, compd. with alpha-isotridecyl-omega-hydroxypoly(oxy-1,2-ethanediyl) phosphate (PMN P–96–1176; CAS No. 164383–18–0) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial and consumer activities.* Requirements as specified in § 721.80(j).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

32. By adding new § 721.2280 to subpart E to read as follows:

§ 721.2280 Cyclopropanecarboxaldehyde.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as cyclopropanecarboxaldehyde (PMN P–96–33) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63 (a)(4), (a)(5)(i), (a)(5)(ii), (a)(5)(iii), (a)(5)(xii), (a)(5)(xiii), (a)(5)(xiv), (a)(6)(v), (b) (concentration set at 1.0 percent), and (c). Each person who is reasonsonably likely to be exposed by inhalation to the PMN substance in vapor form during loading of rail cars is provided with, and is required to wear, at a minimum, a National Institute for Occupational Safety and Health (NIOSH) approved category 19C Type C supplied-air respirator operated in pressure demand or other positive pressure mode and equipped with a full facepiece with an assigned protection factor (APF) of 200. As an alternative to the respiratory requirements in this section, manufacturers, importers, and processors may use the new chemical exposure limits provisions, including sampling and analytical methods which have previously been approved by EPA for this substance, found in the TSCA section 5(e) consent order for this substance.

(ii) *Hazard communication program.* Requirements as specified in § 721.72 (a), (b), (c), (d), (e) (concentration set at 1.0 percent), (f), (g)(1)(i), (g)(1)(ii), (g)(1)(iv), (g)(1)(ix), (g)(2)(ii), (g)(2)(iii), (g)(2)(iv), and (g)(5).

(iii) *Industrial, commercial, and consumer activites.* Requirements as specified in § 721.80(q).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (d), (e), (f), (g), (h), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to this section.

33. By adding new § 721.2345 to subpart E to read as follows:

§ 721.2345 Alkyletherpropyl dialkylamines.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substances identified as alkyletherpropyl dialkylamines (PMNs P–96–1510/1511/1512/1513/1514) are subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90 (a)(1), (b)(1), and (c)(1).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of these substances.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

34. By adding new § 721.2350 to subpart E to read as follows:

§ 721.2350 Alkyltri, tetra, and pentaamines.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substances identified generically as alkyltri, tetra, and pentaamines (PMNs P–96–406/407/408) are subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90 (a)(1), (b)(1), and (c)(1).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of these substances.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

35. By adding new § 721.2535 to subpart E to read as follows:

§ 721.2535 Benzene, 1,1′-methylanebis[4-isocyanato-, homopolymer, Bu alc.-blocked.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as benzene, 1,1′-methylanebis[4-isocyanato-, homopolymer, Bu alc.-blocked (PMN P–95–1386; CAS No. 186321–98–2) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(y)(1).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

36. By adding new § 721.2805 to subpart E to read as follows:

§ 721.2805 Acrylate ester.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as an acrylate ester (PMN P–96–824) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90 (a)(1), (b)(1), and (c)(1).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

37. By adding new § 721.2925 to subpart E to read as follows:

§ 721.2925 Brominated aromatic ester.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as a brominated aromatic ester (PMN P–95–1128) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Hazard communication program.* Requirements as specified in § 721.72 (a), (b), (c), (d), (f), (g)(3)(1), (g)(3)(ii), (g)(4)(iii), and (g)(5).

(ii) [Reserved]

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(q).

(iv) *Release to water.* Requirements as specified in § 721.90 (a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (f), (g), (h), (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to this section.

38. By adding new § 721.3085 to subpart E to read as follows:

§ 721.3085 Brominated phthalate ester.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as brominated phthalate ester (PMN P–90–581) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(q).

(ii) *Hazard communication program.* A significant new use of this substance is any manner or method of manufacture, import, or processing associated with any use of these substances without providing risk notification as follows.

(A) If as a result of the test data required under the TSCA section 5(e) consent order for this substance, the employer becomes aware that this substance may present a risk of injury to human health or the environment the employer must incorporate this new information, and any information on methods for protecting against such risk, into a MSDS as described in § 721.72(c) within 90 days from the time the employer becomes aware of the new information. If this substance is not being manufactured, imported, processed, or used in the employer's workplace, the employer must add the new information to an MSDS before the substances are reintroduced into the workplace.

(B) The employer must ensure that persons who will receive, or who have received the substance from the employer within 5 years from the date the employer becomes aware of the new information described in paragraph (a)(2)(i)(A) of this section, are provided an MSDS as described in § 721.72(c) containing the information required under paragraph (a)(2)(i)(A) of this section within 90 days from the time the employer becomes aware of the new information.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to this section.

39. By adding new § 721.3155 to subpart E to read as follows:

§ 721.3155 3,8-Dioxa-4,7-disiladecane, 4,4,7,7-tetraethoxy-.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as 3,8-dioxa-4,7-disiladecane, 4,4,7,7-tetraethoxy- (PMN P–95–1326; CAS No. 16068–37–4) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(y)(1).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

40. By adding new § 721.3465 to subpart E to read as follows:

§ 721.3465 Stilbene diglycidyl ether.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as stilbene diglycidyl ether (PMN P–96–1427) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63 (a)(1), (a)(2)(i), (a)(3), (a)(4), (a)(5)(ii),

(a)(5)(iv), (a)(5)(v), (a)(6)(i), (b) (concentration set at 0.1 percent), and (c). As an alternative to the respiratory protection requirements of this section, manufacturers, importers, and processors of this substance may follow the terms of the new chemical exposure limits section in the TSCA section 5(e) consent order for this substance.

(ii) *Hazard communication program*. Requirements as specified in § 721.72 (a), (b), (c), (d), (e) (concentration set at 1.0 percent), (f), (g)(1)(ii), (g)(1)(vi), (g)(1)(vii), (g)(2)(i), (g)(2)(ii), (g)(2)(iv), (g)(2)(v), and (g)(5). The label and MSDS as required by this paragraph shall also include the following statement: When using this substance use respiratory protection or maintain workplace airborne concentrations at or below an 8-hour time-weighted average of 0.5 milligram (mg)/meter (m^3).

(iii) *Industrial, commercial, and consumer activities*. Requirements as specified in § 721.80(q).

(b) *Specific requirements*. The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping*. Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (d), (e), (f), (g), (h), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements*. The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section*. The provisions of § 721.1725(b)(1) apply to this section.

41. By adding new § 721.3485 to subpart E to read as follows:

§ 721.3485 Hydrofluorocarbon alkyl ether.

(a) *Chemical substance and significant new uses subject to reporting*. (1) The chemical substance identified generically as a hydrofluorocarbon alkyl ether (PMN P–95–1578) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. Non-spray uses are exempt from the provisions of this rule.

(2) The significant new uses are:

(i) *Protection in the workplace*. Requirements as specified in § 721.63 (a)(4), (a)(5)(iii), and (a)(6)(v).

(ii) *Industrial, commercial, and consumer activities*. Requirements as specified in § 721.80(g).

(b) *Specific requirements*. The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping*. Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (d), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements*. The provisions of § 721.185 apply to this section.

42. By adding new § 721.3488 to subpart E to read as follows:

§ 721.3488 Poly(oxy-1,2-ethanediyl), alpha substituted-omega-hydroxy-, C_{16-20} alkyl ethers.

(a) *Chemical substance and significant new uses subject to reporting*. (1) The chemical substance identified generically as poly(oxy-1,2-ethanediyl), alpha substituted-omega-hydroxy-, C_{16-20} alkyl ethers (PMN P–87–323) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities*. Requirements as specified in § 721.90 (a)(4), (b)(4), and (c)(4) (N = 20).

(ii) [Reserved]

(b) *Specific requirements*. The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping*. Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements*. The provisions of § 721.185 apply to this section.

43. By adding new § 721.3565 to subpart E to read as follows:

§ 721.3565 Ethylenediamine, substituted, sodium salt.

(a) *Chemical substance and significant new uses subject to reporting*. (1) The chemical substance identified generically as ethylenediamine, substituted, sodium salt (PMN P–97–328) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities*. Requirements as specified in § 721.80(g).

(ii) [Reserved]

(b) *Specific requirements*. The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping*. Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements*. The provisions of § 721.185 apply to this section.

44. By adding new § 721.4085 to subpart E to read as follows:

§ 721.4085 Guanidine, pentaethyl-.

(a) *Chemical substance and significant new uses subject to reporting*. (1) The chemical substance identified as guanidine, pentaethyl- (PMN P–94–1018; CAS No. 13439–89–9) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace*. Requirements as specified in § 721.63 (a)(1), (a)(2)(i), and (a)(3).

(ii) [Reserved]

(b) *Specific requirements*. The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping*. Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (d), and (e) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements*. The provisions of § 721.185 apply to this section.

45. By adding new § 721.4090 to subpart E to read as follows:

§ 721.4090 Ethanaminium, N-[bis(diethylamino)-methylene]-N-ethyl-, bromide.

(a) *Chemical substance and significant new uses subject to reporting*. (1) The chemical substance identified as ethanaminium, *N*-[bis(diethylamino)-methylene]-*N*-ethyl-, bromide (PMN P–94–1019; CAS No. 89610–32–2) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water*. Requirements as specified in § 721.90 (a)(1), (b)(1), and (c)(1).

(ii) [Reserved]

(b) *Specific requirements*. The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping*. Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements*. The provisions of § 721.185 apply to this section.

46. By adding new § 721.4095 to subpart E to read as follows:

§ 721.4095 Quaternary ammonium alkyltherpropyl trialkylamine halides.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substances identified generically as quaternary ammonium alkyltherpropyl trialkylamine halides (PMNs P–96–1280/81/1504/1505/1506/1507/1508) are subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90 (a)(1), (b)(1), and (c)(1).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of these substances.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

47. By adding new § 721.4158 to subpart E to read as follows:

§ 721.4158 Hexadecanoic acid, ethenyl ester.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as hexadecanoic acid, ethenyl ester (PMN P–97–302; CAS No. 693–38–9) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63 (a)(2)(i) and (a)(3).

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80 (f) and (j).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (d), (e), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

48. By adding new § 721.4257 to subpart E to read as follows:

§ 721.4257 Hydrazine, (2-fluorophenyl).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as hydrazine, (2-fluorophenyl) (PMN P–95–2101; CAS No. 2368–80–1) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a) and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

49. By adding new § 721.4259 to subpart E to read as follows:

§ 721.4259 Aliphatic polyisocyanate homopolymer.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as an aliphatic polyisocyanate homopolymer (PMN P–96–1239) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(g).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

50. By adding new § 721.4462 to subpart E to read as follows:

§ 721.4462 Hydrochlorofluorocarbon.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as a hydrochlorofluorocarbon (PMN P–95–1317) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(g).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

51. By adding new § 721.4464 to subpart E to read as follows:

§ 721.4464 Mixture of hydrofluoro alkanes and hydrofluoro alkene.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substances identified generically as a mixture of hydrofluoro alkanes and hydrofluoro alkene (PMNs P–96–945/946/947/948) are subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(g).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements specified as in § 721.125 (a), (b), (c), and (i) are applicable to manufacturers, importers, and processors of these substances.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

52. By adding new § 721.4465 to subpart E to read as follows:

§ 721.4465 Hydrofluoroalkane.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as a hydrofluoroalkane (PMN P–96–1288) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(h).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part

apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a) and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

53. By adding new § 721.4467 to subpart E to read as follows:

§ 721.4467 Quaternary ammonium hydroxide.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as a quaternary ammonium hydroxide (PMN P–95–1806) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90 (a)(1), (b)(1), and (c)(1).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

54. By adding new § 721.4468 to subpart E to read as follows:

§ 721.4468 1H-Imidazole, 2-ethyl-4,5-dihydro-4-methyl-.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as 1H-imidazole, 2-ethyl-4,5-dihydro-4-methyl- (PMN P–97–217; CAS No. 931–35–1) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90 (a)(4), (b)(4), and (c)(4) (N = 40).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

55. By adding new § 721.4469 to subpart E to read as follows:

§ 721.4469 Imidazolethione.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as an imidazolethione (PMNs P–91–1131 and P–90–564) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. Formulations or mixtures containing the PMN substance in concentrations at or below 10 percent by weight or volume are exempt from the provisions of this rule.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63 (a)(1), (a)(3), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72 (a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (g)(1)(ix), (g)(2)(i), (g)(2)(v), and (g)(5). The label and MSDS as required by this paragraph shall also include the following statements: This substance may cause thyroid cancer. This substance may cause thyroid effects.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (d), (e), (f), (g), and (h) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

56. By adding new § 721.4476 to subpart E to read as follows:

§ 721.4476 Substituted imines.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substances identified generically as substituted imines (PMNs P–95–1557/1558) are subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90 (a)(1), (b)(1), and (c)(1).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of these substances.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

57. By adding new § 721.4589 to subpart E to read as follows:

§ 721.4589 Propanedioic acid, [(4-methoxyphenyl)methylene]-, bis(1,2,2,6,6-pentamethyl-4-piperidinyl) ester (9CI).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as propanedioic acid, [(4-methoxyphenyl)methylene]-, bis(1,2,2,6,6-pentamethyl-4-piperidinyl) ester (9CI) (PMN P–95–1411; CAS No. 147783–69–5) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63 (a)(4), (a)(5)(i), (a)(5)(ii), (a)(5)(iii), (a)(6)(i), (b) (concentration set at 1.0 percent), and (c). As an alternative to the respiratory protection requirements of this section, manufacturers, importers, and processors of this substance may follow the terms of the new chemical exposure limits section in the TSCA section 5(e) consent order for this substance.

(ii) *Hazard communication program.* Requirements as specified in § 721.72 (a), (b), (c), (d), (e), (f), (g)(1)(iv), (g)(1)(vi), (g)(1)(viii), (g)(2)(ii), (g)(2)(iii), (g)(2)(iv), and (g)(5).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(q).

(iv) *Release to water.* Requirements as specified in § 721.90 (a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (d), (f), (g), (h), (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to this section.

58. By adding new § 721.4885 to subpart E to read as follows:

§ 721.4885 Methanone, [5-[[3-(2H-benzotriazol-2-yl)-2-hydroxy-5-(1,1,3,3-tetramethylbutyl)phenyl]methyl]-2-hydroxy-4-(octyloxy) phenyl]phenyl-.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as methanone, [5-[[3-(2H-benzotriazol-2-yl)-2-hydroxy-5-(1,1,3,3-tetramethylbutyl)phenyl]methyl]-2-hydroxy-4-(octyloxy)phenyl]phenyl- (PMN P–96–942; CAS No.162245–07–0) is subject to the reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63 (a)(4), (a)(5)(ii), (a)(5)(iii), (a)(5)(iv), (a)(5)(v), (a)(6)(i), (b) (concentration set at 1.0 percent), and (c). As an alternative to the respiratory protection requirements of this section, manufacturers, importers, and processors of this substance may follow the terms of the new chemical exposure limits section in the TSCA section 5(e) consent order for this substance.

(ii) *Hazard communication program.* Requirements as specified in § 721.72 (a), (b), (c), (d), (e) (concentration set at 1.0 percent), (f), (g)(1)(i), (g)(1)(iv), (g)(1)(vi), (g)(1)(viii), (g)(2)(ii), (g)(2)(iv), and (g)(5).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(q).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (d), (f), (g), (h), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to this section.

59. By adding new § 721.5255 to subpart E to read as follows:

§ 721.5255 2-Naphthalenol, mono and dioctyl derivs.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as 2-naphthalenol, mono and dioctyl derivs (PMN P–95–1288) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90 (a)(4), (b)(4), and (c)(4) (where N = 1). When calculating the surface water concentrations according to the instructions in § 721.91, the statement that the amount of the substance that will be released will be calculated before the substance enters control technology does not apply. Instead, if the waste stream containing the substance will be treated before release, then the amount of the substance reasonably likely to be removed from the waste stream by such treatment may be subtracted in calculating the number of kilograms released. No more than 90 percent removal efficiency may be attributed to such treatment.

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

60. By adding new § 721.5279 to subpart E to read as follows:

§ 721.5279 2,7-Naphthalenedisulfonic acid, 4-amino-3-[[4′2-amino-4-[(3-butoxy-2-hydroxypropyl)amino]phebyl]azo]-3,3′-dimethyl[1,1′-biphenyl]-4-yl]azo]-5-hydroxy-6-(phenylazo)-, disodium salt.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as 2,7-naphthalenedisulfonic acid, 4-amino-3-[[4′2-amino-4-[(3-butoxy-2-hydroxypropyl)amino]phebyl]azo]-3,3′-dimethyl[1,1′-biphenyl]-4-yl]azo]-5-hydroxy-6-(phenylazo)-, disodium salt (PMN P–97–131; CAS No. 103580–64–9) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80 (f), (v)(1), (w)(1), and (x)(1).

(ii) *Release to water.* Requirements as specified in § 721.90 (a)(4), (b)(4), and (c)(4) (N = 40).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

61. By adding new § 721.5280 to subpart E to read as follows:

§ 721.5280 2,7-Naphthalenedisulfonic acid, 4-amino-5-hydroxy-, coupled with diazotized 4-butylbenzenamine, diazotized 4,4′-cyclohexylidenebis[benzenamine] and m-phenylenediamine, sodium salt.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as 2,7-naphthalenedisulfonic acid, 4-amino-5-hydroxy-, coupled with diazotized 4-butylbenzenamine, diazotized 4,4′-cyclohexyl-idenebis[benzenamine] and m-phenylenediamine, sodium salt (PMN P–97–193; CAS No. 182238–09–1) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80 (f), (v)(1), (w)(1), and (x)(1).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

62. By adding new § 721.5281 to subpart E to read as follows:

§ 721.5281 2-Naphthalenesulfonic acid, 3-[[4-[(2,4-dimethyl-6-sulfophenyl)azo]-2-methoxy-5-methylphenyl]azo]-4-hydroxy-7-(phenylamino)-, sodium salt, compd. With 2,2′,2″-nitrilotris [ethanol] (9CI).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as 2-Naphthalenesulfonic acid, 3-[[4-[(2,4-dimethyl-6-sulfophenyl)azo]-2-methoxy-5-methylphenyl]azo]-4-hydroxy-7-(phenylamino)-, sodium salt, compd. With 2,2′,2″-nitrilotris [ethanol] (9CI) (PMN P–95–1235; CAS No. 94213–53–3) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80 (f), (v)(1), (w)(1), and (x)(1).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part

apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements specified in § 721.125 (a), (b), (c), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

63. By adding new § 721.5547 to subpart E to read as follows:

§ 721.5547 Antimony double oxide.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substances identified generically as antimony double oxide (PMNs P–95–677 and P–95–724) are subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Hazard communication program.* Requirements as specified in § 721.72 (a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (g)(1)(vii), (g)(2)(ii), (g)(2)(iii), (g)(3)(ii), and (g)(5). The label and MSDS as required by this paragraph shall also include the following statements: These substances may cause lung toxicity. When using these substances avoid any applications of these substances which could cause inhalation exposures. When using these substances keep in liquid form only.

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80 (f), (v)(1), (v)(2), (w)(1), (w)(2), (x)(1), (x)(2), (y)(1), and (y)(2). Manufacturing, processing or use in any form which could cause inhalation exposures.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements specified in § 721.125 (a), (b), (c), (f), (g), (h), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

64. By adding new § 721.5549 to subpart E to read as follows:

§ 721.5549 Lithiated metal oxide.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as lithiated metal oxide ($LiNiO_2$) (PMN P–96–19; CAS No. 12031–65–1) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63 (a)(1), (a)(3), (a)(4), (a)(5)(i), (a)(6)(i), (a)(6)(iv), (b) (concentration set at 0.1 percent), and (c). As an alternative to the respiratory requirements listed here, a manufacturer, importer, or processor may choose to follow the new chemical exposure limit (NCEL) provisions listed in the TSCA section 5(e) consent order for this substance.

(ii) *Hazard communication program.* Requirements as specified in § 721.72 (a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f) (g)(1)(iv), (g)(1)(vii), (g)(1)(viii), (g)(2)(i), (g)(2)(ii), (g)(2)(iii), (g)(2)(iv), (g)(2)(v), (g)(3)(i), (g)(3)(ii), (g)4)(i), and (g)(5).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(q).

(iv) *Release to water.* Requirements as specified in § 721.90 (a)(4), (b)(4), and (c)(4) (N = 30).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a), (b), (c), (d), (e), (f), (g), (h), (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to this section.

65. By adding new § 721.5645 to subpart E to read as follows:

§ 721.5645 Pentane 1,1,1,2,3,4,4,5,5,5,-decafluoro.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as pentane 1,1,1,2,3,4,4,5,5,5,-decafluoro (PMN P–95–638 and SNUN P–97–79; CAS No. 138495–42–8) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(j) and uses other than as described in the significant new use notice.

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

66. By adding new § 721.5650 to subpart E to read as follows:

§ 721.5650 Pentanediol light residues.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as pentanediol light residues (PMN P–95–1750) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial and consumer activities.* Requirements as specified in § 721.80(o).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

67. By adding new § 721.5708 to subpart E to read as follows:

§ 721.5708 2-Pentene, 1,1,1,2,3,4,4,5,5,5-decafluoro-.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as 2-Pentene, 1,1,1,2,3,4,4,5,5,5-decafluoro- (PMN P–95–637; CAS No.72804–49–0) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(j).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements specified in § 721.125 (a), (b), (c), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

68. By adding new § 721.5725 to subpart E to read as follows:

§ 721.5725 Phenol, 2,4-dimethyl-6-(1-methylpentadecyl)-.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as phenol, 2,4-dimethyl-6-(1-methylpentadecyl)-) (PMN P–94–209; CAS No. 134701–20–5) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63 (a)(2)(i) and (a)(3).

(ii) *Release to water.* Requirements as specified in § 721.90 (a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (d), (e), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

69. By adding new § 721.5730 to subpart E to read as follows:

§ 721.5730 Phenol, 4,4″-methylenebis[2,6-dimethyl-.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as phenol, 4,4″-methylenebis[2,6-dimethyl- (PMN P–94–921) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63 (a)(1), (a)(3), (a)(4), (a)(5)(ii), (a)(5)(iv), (a)(5)(v), (a)(6)(i), (b) (concentration set at 1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72 (a), (b), (c), (d), (e) (concentration set at 1 percent), (f), (g)(1)(iv), (g)(2)(iv), (g)(2)(v), (g)(3)(ii), (g)(4)(iii), and (g)(5). The label and MSDS as required by this paragraph shall also include the following statements: This substance may cause blood effects. This substance may cause chronic effects.

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80 (g), (l), and (q).

(iv) *Release to water.* Requirements as specified in § 721.90 (a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (d), (e), (f), (g), (h), (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to this section.

70. By adding new § 721.5913 to subpart E to read as follows:

§ 721.5913 Phenothiazine derivative.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as a phenothiazine derivative (PMN P–96–813) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a) and (i) are applicable to manufacturers, and importers of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

71. By adding new § 721.5995 to subpart E to read as follows:

§ 721.5995 Polyalkyl phosphate.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as a polyalkyl phosphate (PMN P–95–1772) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Releases to water.* Requirements as specified in § 721.90 (a)(4), (b)(4), and (c)(4) (N = 1 ppb).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

72. By adding new § 721.6045 to subpart E to read as follows:

§ 721.6045 Phosphinothioic acid, bis(2,4,4-trimethylpentyl)- (9Cl).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as phosphinothioic acid, bis(2,4,4-trimethylpentyl)- (9Cl) (PMN P–96–1652; CAS No. 132767–86–3) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90 (a)(4), (b)(4), and (c)(4) (N = 10). When calculating the surface water concentrations according to the instructions in § 721.91, the statement that the amount of the substance that will be released will be calculated before the substance enters control technology does not apply. Instead, if the waste stream containing the substance will be treated using carbon adsorption treatment before release, then the amount of the substance reasonably likely to be removed from the waste stream by such treatment may be subtracted in calculating the number of kilograms released. No more than 99 percent removal efficiency may be attributed to such treatment.

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

73. By adding new § 721.6075 to subpart E to read as follows:

§ 721.6075 Phosphonic acid, 1,1-methylenebis-tetrakis(1-methylethyl) ester.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as phosphonic acid, 1,1-methylenebis-tetrakis(1-methylethyl) ester (PMN P–95–168) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace*. Requirements as specified in § 721.63 (a)(1), (a)(2)(i), (a)(2)(iii), (a)(2)(iv), (a)(3), (b) (concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program*. Requirements as specified in § 721.72 (a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (g)(2)(i), (g)(2)(v), and (g)(5). The label and MSDS required by this paragraph shall also include the following statement: This substance may cause mutagenicity.

(b) *Specific requirements*. The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping*. Recordkeeping requirements as specified in § 721.125 (a) through (h) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements*. The provisions of § 721.185 apply to this section.

74. By adding new § 721.6078 to subpart E to read as follows:

§ 721.6078 Substituted ethoxyethylamine phosphonate.

(a) *Chemical substance and significant new uses subject to reporting*. (1) The chemical substance identified generically as a substituted ethoxyethylamine phosphonate (PMN P–95–1950) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water*. Requirements as specified in § 721.90 (a)(1), (b)(1), and (c)(1).

(ii) [Reserved]

(b) *Specific requirements*. The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping*. Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements*. The provisions of § 721.185 apply to this section.

75. By adding new § 721.6165 to subpart E to read as follows:

§ 721.6165 Polysubstituted piperidine.

(a) *Chemical substance and significant new uses subject to reporting*. (1) The chemical substance identified generically as a polysubstituted piperdine (PMN P–93–568) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water*. Requirements as specified in § 721.90 (a)(4), (b)(4), and (c)(4) (N = 30).

(ii) [Reserved]

(b) *Specific requirements*. The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping*. Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements*. The provisions of § 721.185 apply to this section.

76. By adding new § 721.6170 to subpart E to read as follows:

§ 721.6170 Siloxanes and silicones, Me hydrogen, reaction products with 2,2,6,6-tetramethyl-4-(2-propenyloxy)piperdine.

(a) *Chemical substance and significant new uses subject to reporting*. (1) The chemical substance identified as siloxanes and silicones, Me hydrogen, reaction products with 2,2,6,6-tetramethyl-4-(2-propenyloxy)piperdine (PMN P–95–1891; CAS No. 182635–99–0) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities*. Requirements as specified in § 721.80 (v)(1), (w)(1), and (x)(1).

(ii) [Reserved]

(b) *Specific requirements*. The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping*. Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements*. The provisions of § 721.185 apply to this section.

77. By adding new § 721.6197 to subpart E to read as follows:

§ 721.6197 Salt of a substituted polyalkylenepolyamine.

(a) *Chemical substance and significant new uses subject to reporting*. (1) The chemical substance identified generically as a salt of a substituted polyalkylenepolyamine (PMN P–96–585) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water*. Requirements as specified in § 721.90 (a)(1), (b)(1), and (c)(1).

(ii) [Reserved]

(b) *Specific requirements*. The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping*. Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements*. The provisions of § 721.185 apply to this section.

78. By adding new § 721.6475 to subpart E to read as follows:

§ 721.6475 Alkyl polycarboxylic acids, esters with ethoxylated fatty alcohols.

(a) *Chemical substance and significant new uses subject to reporting*. (1) The chemical substances identified generically as alkyl polycarboxylic acids, esters with ethoxylated fatty alcohols (PMNs P–96–554/555/556/557/558/559) are subject to reporting under this section for the significant new uses described in paragraph (a)(1)(i) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial and consumer activities*. Requirements as specified in § 721.80(g).

(ii) [Reserved]

(b) *Specific requirements*. The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping*. Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (i) are applicable to manufacturers, importers, and processors of these substances.

(2) *Limitations or revocation of certain notification requirements*. The provisions of § 721.185 apply to this section.

(3) *Chemical substance and significant new uses subject to reporting*. The chemical substances identified generically as alkyl polycarboxylic acids, esters with ethoxylated fatty alcohols (PMN P–96–560/561/564/565) are subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(i) The significant new uses are:

(A) *Release to water*. Requirements as specified in § 721.90 (a)(1), (b)(1), and (c)(1).

(B) [Reserved]

(ii) *Specific requirements*. The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(A) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of these substances.

(B) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

79. By adding new § 721.6477 to subpart E to read as follows:

§ 721.6477 Alkyl polycarboxylic acids, esters with ethoxylated fatty alcohols, reaction products with maleic anhydride.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substances identified generically as alkyl polycarboxylic acids, esters with ethoxylated fatty alcohols, reaction products with maleic anhydride (PMNs P–96–399/400/401/402/403/404) are subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90 (a)(1), (b)(1), and (c)(1).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of these substances.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

80. By adding new § 721.6485 to subpart E to read as follows:

§ 721.6485 Hydroxy terminated polyester.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as a hydroxy terminated polyester (PMN P–95–1213) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90 (a)(1), (b)(1), and (c)(1).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

81. By adding new § 721.6490 to subpart E to read as follows:

§ 721.6490 Alkyl phenyl polyetheramines.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substances identified generically as alkyl phenyl polyetheramines (PMNs P–95–1650/1651/1652/1653) are subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90 (a)(1), (b)(1), and (c)(1).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

82. By adding new § 721.6495 to subpart E to read as follows:

§ 721.6495 Aliphatic polyisocyanate.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as an aliphatic polyisocyanate (PMN P–95–1347) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(y)(1).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

83. By adding new § 721.6505 to subpart E to read as follows:

§ 721.6505 Polymers of $C_{13}C_{15}$ oxoalcohol ethoxolates.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substances identified generically as polymers of $C_{13}C_{15}$ oxoalcohol ethoxolates (PMNs P–96–950/951) are subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90 (a)(1), (b)(1), and (c)(1).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of these substances.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

84. By adding new § 721.7375 to subpart E to read as follows:

§ 721.7375 Potassium salt of polyolefin acid.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as a potassium salt of polyolefin acid (PMN P–97–417) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(j).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

85. By adding new § 721.7378 to subpart E to read as follows:

§ 721.7378 Substituted polyoxyethylene.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as a substituted polyoxyethylene (PMN P–93–1654) is

subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(j) (use as an emulsifier for paint and adhesives).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

86. By adding new § 721.8079 to subpart E to read as follows:

§ 721.8079 Isophorone diisocyanate neopentyl glycol adipate polyurethane prepolymer.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as isophorone diisocyanate neopentyl glycol adipate polyurethane prepolymer (PMN P–94–1743) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. Non-spray uses are exempt from the provisions of this rule.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63 (a)(4), (a)(5)(i), (a)(5)(ii), (a)(5)(iii), (a)(5)(viii), (a)(5)(ix), (a)(5)(x), (a)(5)(xi), (a)(6)(i), (a)(6)(ii), (a)(6)(iv), and (b) (concentration set at 1.0 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72 (a), (b), (c), (d), (e) (concentration set at 1.0 percent), (f), (g)(1)(i), (g)(1)(ii), (g)(2)(i), (g)(2)(ii), (g)(2)(iii), (g)(2)(iv), (g)(2)(v), and (g)(5). Manufacturers, importers, and processors who implement the product stewardship provisions of the TSCA section 5(e) consent order for these substances are exempt from the requirements of § 721.63 and § 721.72.

(iii) *Industrial, commercial and consumer activities.* Requirements as specified in § 721.80(q).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a) through (i) are applicable to manufacturers, importers, and processors of this substance. Manufacturers, importers, and processors who implement the product stewardship provisions and keep records as required by the TSCA section 5(e) consent order for these substances are exempt from the requirements of § 721.125.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to this section.

(4) *Applicability of § 721.5.* The provisions of § 721.5 do not apply to manufacturers, importers, and processors, implementing the product stewardship provisions in the TSCA section 5(e) consent order for this substance.

87. By adding new § 721.8095 to subpart E to read as follows:

§ 721.8095 Silylated polyurethane.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as a silylated polyurethane (PMN P–95–1356) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(y)(1).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

88. By adding new § 721.8780 to subpart E to read as follows:

§ 721.8780 Substituted pyridine azo substituted phenyl.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substances identified generically as substituted pyridine azo substituted phenyl (PMNs P–96–767 and P–96–773) are subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a) and (i) are applicable to manufacturers and importers of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

89. By adding new § 721.9005 to subpart E to read as follows:

§ 721.9005 2-Pyrrolidinone, 1,1′-(2-methyl-1,5-pentanediyl)bis-.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as 2-pyrrolidinone, 1,1′-(2-methyl-1,5-pentanediyl)bis- (PMN P–93–761; CAS No. 146453–62–5) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63 (a)(1), (a)(2)(i) (There must be no permeation of the PMN substance greater than 0.08 grams (g)/minutes (min) centimeter (cm^2) after 8 hours of testing in accordance with the most current version of the American Society for Testing and Materials (ASTM) F739 ''Standard Test Method for Resistance of Protective Clothing Materials to Permeation by Liquids or Gases.'' The results of all glove permeation testing must be reported in accordance with the most current version of (ASTM) F1194 ''Guide for Documenting the Results of Chemical Permeation Testing of Protective Clothing Materials.'' Manufacturers, importers, and processors must submit such glove test data to the Agency and must receive written Agency approval for each type of glove tested prior to use of such gloves. The following gloves have been tested in accordance with the ASTM F739 method and found to satisfy the requirements for use by EPA: Ansell Edmond/8–352/Neoprene rubber, 0.097 cm thick. Gloves may not be used for a time period longer than they are actually tested and must be replaced at the end of each work shift), (a)(2)(ii), (a)(2)(iii), (a)(3), (b) (concentration set at 1.0 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72 (a), (b), (c), (d), (e) (concentration set at

1.0 percent), (f), (g)(l)(iii), (g)(l)(iv), (g)(2)(i), (g)(2)(iii), (g)(2)(v), and (g)(5). The label and MSDS as required by this paragraph shall also include the following statement: This substance is expected to enhance the absorption of other chemicals into skin or other materials.

(iii) *Industrial, commercial, and consumer activities*. Requirements as specified in § 721.80 (o), (q), and (k) (use other than as a heat transfer fluid).

(b) *Specific requirements*. The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping*. Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (d), (e), (f), (g), (h), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements*. The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section*. The provisions of § 721.1725(b)(1) apply to this section.

90. By adding new § 721.9010 to subpart E to read as follows:

§ 721.9010 2-pyrrolidone, 1-ethenyl-3-ethylidene-, (E)-.

(a) *Chemical substance and significant new uses subject to reporting*. (1) The chemical substance identified as 2-pyrrolidone, 1-ethenyl-3-ethylidene-, (E)- (PMN P–96–1536; CAS No. 153954–47–3) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace*. Requirements as specified in § 721.63 (a)(2)(i) and (a)(3).

(ii) [Reserved]

(b) *Specific requirements*. The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping*. Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (d), and (e) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements*. The provisions of § 721.185 apply to this section.

91. By adding new § 721.9080 to subpart E to read as follows:

§ 721.9080 Nitro methyl quinoline.

(a) *Chemical substance and significant new uses subject to reporting*. (1) The chemical substance identified generically as nitro methyl quinoline (PMN P–96–1319) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace*. Requirements as specified in § 721.63 (a)(4), (a)(5)(ii), (a)(5)(iv), (a)(5)(v), and (a)(6)(i).

(ii) *Disposal*. Requirements as specified in § 721.85 (a)(1), (b)(1), and (c)(1).

(b) *Specific requirements*. The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping*. Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (d), and (j) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements*. The provisions of § 721.185 apply to this section.

92. By adding new § 721.9265 to subpart E to read as follows:

§ 721.9265 Reaction product of dichlorobenzidine and substituted alkylamide.

(a) *Chemical substance and significant new uses subject to reporting*. (1) The chemical substance identified generically as a reaction product of dichlorobenzidine and substituted alkylamide (PMN P–95–1282) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Hazard communication program*. Requirements as specified in § 721.72 (a), (b), (c), (d), (e), (f), and (g)(5). The label and MSDS as required by this paragraph shall also include the following statements: At temperatures above 200 °C, this substance decomposes to produce a suspect human carcinogen, 3′,3′ dichlorobenzidine. Do not heat above 200 °C or 392 °F.

(ii) *Industrial, commercial, and consumer activities*. Requirements as specified in § 721.80(f) and processing or use of the PMN substance at temperatures above 200 °C.

(b) *Specific requirements*. The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping*. Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (f), (g), (h), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements*. The provisions of § 721.185 apply to this section.

93. By adding new § 721.9270 to subpart E to read as follows:

§ 721.9270 Reaction product of epoxy with anhydride and glycerol and glycol.

(a) *Chemical substance and significant new uses subject to reporting*. (1) The chemical substance identified generically as reaction product of epoxy with anhydride and glycerol and glycol (PMN P–96–1233) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities*. Requirements as specified in § 721.80 (v)(1), (w)(1), (x)(1) and (y)(2).

(ii) *Release to water*. Requirements as specified in § 721.90 (a)(1), (b)(1), and (c)(1).

(b) *Specific requirements*. The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping*. Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements*. The provisions of § 721.185 apply to this section.

94. By adding new § 721.9285 to subpart E to read as follows:

§ 721.9285 Reaction products of formalin (37%) with amine C_{12}.

(a) *Chemical substance and significant new uses subject to reporting*. (1) The chemical substance identified generically as reaction products of formalin (37%) with amine C_{12} (PMN P–95–535) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water*. Requirements as specified in § 721.90 (a)(1), (b)(1), and (c)(1).

(ii) [Reserved]

(b) *Specific requirements*. The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping*. Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements*. The provisions of § 721.185 apply to this section.

95. By adding new § 721.9488 to subpart E to read as follows:

§ 721.9488 Substituted resorcinols.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substances identified generically as substituted resorcinols (PMNs P–95–1103, P–95–1104, and P–96–1235) are subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90 (a)(4), (b)(4), and (c)(4) (N = 9).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* The recordkeeping requirements specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

96. By adding new § 721.9492 to subpart E to read as follows:

§ 721.9492 Polymers of styrene, cyclohexyl methacrylate and substituted methacrylate.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substances identified generically as polymers of styrene, cyclohexyl methacrylate and substituted methacrylate (PMNs P–97–143/144) are subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a) and (i) are applicable to manufacturers, importers, and processors of these substances.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

97. By adding new § 721.9497 to subpart E to read as follows:

§ 721.9497 Trifunctional ketoximino silane.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substances identified generically as trifunctional ketoximino silane (PMNs P–95–605 and P–95–606) are subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63 (a)(1), (a)(2)(i), and (a)(3).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (d), and (e) are applicable to manufacturers, importers, and processors of these substances.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

98. By adding new § 721.9499 to subpart E to read as follows:

§ 721.9499 Modified silicone resin.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as a modified silicone resin (PMN P–96–1649) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90 (a)(4), (b)(4), and (c)(4) (N = 5).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

99. By adding new § 721.9503 to subpart E to read as follows:

§ 721.9503 Silane, (3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,10-heptadecafluorodecyl)trimethoxy-.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as silane, (3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,10-heptadecafluorodecyl) trimethoxy- (PMN P–97–264; CAS No. 83048–65–1) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63 (a)(4), (a)(5)(iii), (a)(5)(xii), (a)(5)(xiii), (a)(5)(xv), (a)(6)(ii), and (a)(6)(v).

(ii) *Release to water.* Requirements as specified in § 721.90 (a)(4), (b)(4), and (c)(4) (N = 10).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (d), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

100. By adding new § 721.9515 to subpart E to read as follows:

§ 721.9515 Aminofunctional alkoxy alkyl siloxane.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as an aminofunctional alkoxy alkyl siloxane (PMN P–96–346) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90 (a)(1), (b)(1), and (c)(1).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

101. By adding new § 721.9545 to subpart E to read as follows:

§ 721.9545 Substituted phenyl azo substituted sulfocarbopolycle, sodium salt.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as a substituted phenyl azo substituted sulfocarbopolycle, sodium salt (PMN P–96–1263) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as

specified in § 721.80 (v)(1), (w)(1), and (x)(1).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

102. By adding new § 721.9575 to subpart E to read as follows:

§ 721.9575 Chromate(3-), bis[3-[[5-(aminosulfonyl)-2-hydroxyphenyl]azo]-4-hydroxy-7-[[2-oxo-1-[(phenylamino)carbonyl] propyl]azo]-2-naphthalenesulfonato(3-)]-, trisodium (9CI).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as chromate(3-), bis[3-[[5-(aminosulfonyl)-2-hydroxyphenyl]azo]-4-hydroxy-7-[[2-oxo-1-[(phenylamino)carbonyl] propyl]azo]-2-naphthalene sulfonato(3-)]-, trisodium (9CI) (PMN P–95–1575; CAS No. 119535–63–6) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80 (v)(1), (w)(1), and (x)(1).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

103. By adding new § 721.9576 to subpart E to read as follows:

§ 721.9576 Chromate(3-), bis[7-[(aminohydroxyphenyl)azo]-3-[[5-(aminosulfonyl)-2-hydroxyphenyl]azo]-4-hydroxy-2-naphthalene-sulfonato (3-)]-, trisodium (9CI).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as chromate(3-), bis[7-[(aminohydroxyphenyl)azo]-3-[[5-(aminosulfonyl)-2-hydroxyphenyl]azo]-4-hydroxy-2-naphthalene-sulfonato (3-)]-, trisodium (9CI) (PMN P–95–1576; CAS No. 118716–62–4) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80 (v)(1), (w)(1), and (x)(1).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

104. By adding new § 721.9577 to subpart E to read as follows:

§ 721.9577 Chromate(3-), bis[7-[(aminohydroxyphenyl)azo]-3-[[5-(aminosulfonyl)-2-hydroxyphenyl] azo]-4-hydroxy-2-naphthalene sulfonato (3-)]-,-[[5-(aminosulfonyl) -2-hydroxyphenyl]azo]-4-hydroxy-7-[[2-hydroxy-1-[(phenylamino) carbonyl]-1-propenyl]azo]-2-naphthalenesulfonato(3-)]-, trisodium (9CI).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as chromate(3-), bis[7-[(aminohydroxyphenyl)azo]-3-[[5-(aminosulfonyl)-2-hydroxy phenyl] azo]-4-hydroxy-2-naphthalenesulfonato (3-)]-,-[[5-(aminosulfonyl) -2-hydroxyphenyl]azo]-4-hydroxy-7-[[2-hydroxy-1-[(phenylamino) carbonyl]-1-propenyl]azo]-2-naphthalene sulfonato(3-)]-, trisodium (9CI) (PMN P–95–1577; CAS No. 118716–61–3) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80 (v)(1), (w)(1), and (x)(1).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

105. By adding new § 721.9635 to subpart E to read as follows:

§ 721.9635 Terpene residue distillates.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as terpene residue distillates (PMN P–96–897) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90 (a)(4), (b)(4), and (c)(4) (N = 10).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

106. By adding new § 721.9657 to subpart E to read as follows:

§ 721.9657 Disubstituted thiadiazole.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as a disubstituted thiadiazole (PMN P–97–314) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80 (a),(b), (c), and (j).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

107. By adding new § 721.9659 to subpart E to read as follows:

§ 721.9659 Disubstituted thiadiazosulfone.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as a disubstituted thiadiazosulfone (PMN P–97–304) is

subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80 (a),(b), (c), and (j).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

108. By adding new § 721.9662 to subpart E to read as follows:

§ 721.9662 Thieno[3,4-b]-1,4-dioxin, 2,3-dihydro- (9Cl).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as thieno[3,4-b]-1,4-dioxin, 2,3-dihydro-(9Cl) (PMN P–95–1825; CAS No. 126213–50–1) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63 (a)(1), (a)(2)(i), (a)(4), (a)(5)(xii), (a)(5)(xiii), (a)(5)(xiv), and (a)(6)(v).

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (d), (e), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

109. By adding new § 721.9664 to subpart E to read as follows:

§ 721.9664 9H-Thioxanthen-9-one,2,4-diethyl.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as 9H-thioxanthen-9-one,2,4-diethyl (PMN P–96–1315; CAS No. 82799–44–8) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90 (a)(4), (b)(4), and (c)(4) (N = 1).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

110. By adding new § 721.9717 to subpart E to read as follows:

§ 721.9717 Azo monochloro triazine reactive dye.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as an azo monochloro triazine reactive dye (PMN P–96–238) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80 (v)(2), (w)(2), and (x)(2).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

111. By adding new § 721.9825 to subpart E to read as follows:

§ 721.9825 Phenyl substituted triazolinones.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substances identified generically as phenyl substituted triazolinones (PMNs P–93–204, P–94–1870, P–94–1871, P–94–1872, P–94–1873, and P–94–1874) are subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63 (a)(1), (a)(2)(i), (a)(3), (a)(4), (a)(5)(iii), (a)(5)(iv), (a)(5)(v), (a)(5)(vi), (a)(6)(i), (b) (concentration set at 1.0 percent), and (c). The imperviousness of the gloves selected pursuant to (a)(2)(i) of this section must be demonstrated by actual testing under (a)(3)(i) of this section and not by manufacturer specifications. In addition, there must be no permeation of the chemical substance greater than 15 μg/day-cm^2 as a daily cumulative total when tested in accordance with the most current version of the American Society for Testing and Materials (ASTM) F739 ''Standard Test Method for Resistance of Protective Clothing Materials to Permeation by Liquids or Gases'' or ASTM F1383 ''Standard Test Method for Resistance of Protective Clothing Materials to Permeation by Liquids or Gases Under Conditions of Intermittent Contact.''

(A) For conditions of exposure which are intermittent, gloves may be tested in accordance with the most current version of ASTM F1383 ''Standard Test Method for Resistance of Protective Clothing Materials to Permeation by Liquids or Gases Under Conditions of Intermittent Contact,'' provided the contact time in testing is greater than or equal to the expected duration of dermal contact, and the purge time used in the testing is less than or equal to the expected duration of non-contact during the intermittent cycle of dermal exposure in the workplace. If ASTM F1383 is used for testing, the company must submit to the Agency a description of worker activities involving the chemical substance which includes daily frequencies and durations of potential worker exposures.

(B) The results of all glove permeation testing must be reported in accordance with the most current version of (ASTM) F1194 ''Guide for Documenting the Results of Chemical Permeation Testing of Protective Clothing Materials.'' The company must submit all test data to the Agency and must receive written Agency approval for each type of glove tested prior to use of such gloves. Gloves must be discarded and replaced with such frequency as to ensure that they will reliably provide an impervious barrier to the chemical substances under normal and expected conditions of exposure within the work area. Gloves that have been damaged or are defective shall not be used. For PMNs P–94–1871 through P–94–1874, EPA has approved North Safety Butyl Rubber gloves (32 mils thick). For P–93–204 and P–94–1870, EPA has approved North Safety Butyl Rubber gloves (32 mils thick) only if used in combination with a chemical-resistant glove that has been demonstrated (EPA review not required) impermeable to the solvent,

e.g., North Silvershield gloves and North 4H gloves.

(ii) *Hazard communication program*. Requirements as specified in § 721.72 (a), (b), (c), (d), (e) (concentration set at 1.0 percent), (f), (g)(1)(iv), (g)(1)(ix), (g)(2)(i), (g)(2)(ii), (g)(2)(iii), (g)(2)(iv), (g)(2)(v), (g)(3)(i), (g)(3)(ii), (g)(4)(i), and (g)(5).

(iii) *Release to water*. Requirements as specified in § 721.90 (a)(4), (b)(4), and (c)(4) (N = 5 for all the chemical substances subject to the provisions of this rule combined). However, contrary to the requirements specified in § 721.91, if the waste stream containing the chemical substances will be treated using activated carbon adsorption, then the amount of chemical substances reasonably likely to be removed from the waste stream by such treatment may be subtracted in calculating the number of kilograms released. No more than the following percent removal efficiencies may be attributed to such treatment for each PMN: P–93–204, 99 percent; P–94–1870, 98 percent; P–94–1871, 97 percent; P–94–1872, 92 percent; P–94–1873, 90 percent; P–94–1874, 73 percent.

(b) *Specific requirements*. The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping*. Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (d), (e), (f), (g), (h), and (k) are applicable to manufacturers, importers, and processors of these substances.

(2) *Limitations or revocation of certain notification requirements*. The provisions of § 721.185 apply to this section.

112. By adding new § 721.9830 to subpart E to read as follows:

§ 721.9830 1-Tridecyn-3-ol, 3-methyl.

(a) *Chemical substance and significant new uses subject to reporting*. (1) The chemical substance identified as 1-tridecyn-3-ol, 3-methyl (PMN P–96–236; CAS No. 100912–15–0) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Worker protection*. Requirements as specified in § 721.63 (a)(1), (a)(2)(i), and (a)(3).

(ii) *Industrial, commercial, and consumer activities*. Requirements as specified in § 721.80(f).

(b) *Specific requirements*. The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping*. Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (d), (e), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements*. The provisions of § 721.185 apply to this section.

113. By adding new § 721.9840 to subpart E to read as follows:

§ 721.9840 Tungstate (W12(OH)2O386-) hexasodium (9CI).

(a) *Chemical substance and significant new uses subject to reporting*. (1) The chemical substance identified as tungstate (W12(OH)2O386-) hexasodium (9CI) (PMN P–96–1177; CAS No. 12141–67–2) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities*. Requirements as specified in § 721.80(j).

(ii) [Reserved]

(b) *Specific requirements*. The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping*. Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (d), (e), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements*. The provisions of § 721.185 apply to this section.

114. By adding new § 721.9928 to subpart E to read as follows:

§ 721.9928 Urea, tetraethyl-.

(a) *Chemical substance and significant new uses subject to reporting*. (1) The chemical substance identified as urea, tetraethyl- (PMN P–94–1017; CAS No. 1187–03–7) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace*. Requirements as specified in § 721.63 (a)(1), (a)(2)(i), and (a)(3).

(ii) *Industrial, commercial, and consumer activities*. Requirements as specified in § 721.80(r) (445,000 kg) (a dermal developmental toxicity study in mice and rats and either a chromosome aberration assay in mice (40 CFR 798.5385) or a micronucleus assay in mice (40 CFR 798.5395)). A person may not manufacture or import the substance beyond the following aggregate production volume limits, unless that person conducts the following corresponding studies on the substance and submits all final reports and underlying data in accordance with the procedures and criteria specified in paragraphs (a)(2)(i)(A), (a)(2)(i)(B), (a)(2)(i)(C), and (a)(2)(i)(D) of this section.

(A) Each study required to be performed pursuant to this section must be scientifically valid. *Scientific valid* means that the study was conducted according to:

(*1*) The test guidelines specified in paragraph (a)(2)(i) of this section.

(*2*) An EPA-approved protocol.

(*3*) TSCA Good Laboratory Practice Standards at 40 CFR part 792.

(*4*) Using methodologies generally accepted at the time the study is initiated.

(*5*) Any deviation from these requirements must be approved in writing by EPA.

(B) Before starting to conduct any of the studies in paragraph (a)(2)(i) of this section, the person must obtain approval of test protocols from EPA by submitting written protocols. EPA will respond to the person within 4 weeks of receiving the written protocols. Published test guidelines specified in paragraph (a)(2)(i) of this section (e.g., 40 CFR part 797 or part 798) provide general guidance for development of test protocols, but are not themselves acceptable protocols.

(C) The person shall:

(*1*) Conduct each study in good faith with due care.

(*2*) Promptly furnish to EPA the results of any interim phase of each study.

(*3*) Submit, in triplicate (with an additional sanitized copy, if confidential business information is involved), the final report of each study and all underlying data (''the report and data'') to EPA no later than 14 weeks prior to exceeding the applicable production volume limit. The final report shall contain the contents specified in 40 CFR 792.185.

(D)(*1*) Except as described in paragraph (a)(2)(ii)(D)(*2*) of this section, if, within 6 weeks of EPA's receipt of a test report and data, the person receives written notice that EPA finds that the data generated by a study are scientifically invalid, the person is prohibited from further manufacture and import of the PMN substance beyond the applicable production volume limit.

(*2*) The person may continue to manufacture and import the PMN substance beyond the applicable production limit only if so notified, in writing, by EPA in response to the person's compliance with either of the following paragraph (a)(2)(ii)(D)(*2*)(*i*) or (a)(2)(ii)(D)(*2*)(*ii*) of this section.

(*i*) The person may reconduct the study. If there is sufficient time to reconduct the study and submit the report and data to EPA at least 14 weeks before exceeding the production limit as required by paragraph (a)(2)(ii)(C)(*3*) of this section, the person shall comply with paragraph (a)(2)(ii)(C)(*3*) of this section. If there is insufficient time for the person to comply with paragraph (a)(2)(ii)(C)(*3*) of this section, the person may exceed the production limit and shall submit the report and data in triplicate to EPA within a reasonable period of time, all as specified by EPA in the notice described in paragraph (a)(2)(ii)(D)(*1*) of this section. EPA will respond to the person in writing, within 6 weeks of receiving the person's report and data.

(*ii*) The person may, within 4 weeks of receiving from EPA the notice described in paragraph (a)(2)(ii)(D)(*1*) of this section, submit to EPA a written report refuting EPA's finding. EPA will respond to the person in writing, within 4 weeks of receiving the person's report.

(E) The person is not required to conduct a study specified in paragraph (a)(2)(i) of this section if notified in writing by EPA that it is unnecessary to conduct that study.

(iii) *Release to water*. Requirements as specified in § 721.90 (a)(1), (b)(1), and (c)(1).

(b) *Specific requirements*. The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping*. Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (d), (e), (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements*. The provisions of § 721.185 apply to this section.

[FR Doc. 98–1074 Filed 1–21–98; 8:45 am]

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federal register

Thursday
January 22, 1998

Part III

The President

Notice of January 21, 1998—Continuation of Emergency Regarding Terrorists Who Threaten To Disrupt the Middle East Peace Process

Federal Register
Vol. 63, No. 14
Thursday, January 22, 1998

Presidential Documents

Title 3—

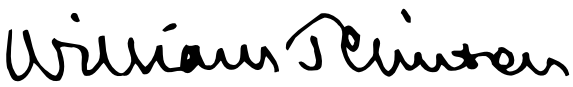
The President

Notice of January 21, 1998

Continuation of Emergency Regarding Terrorists Who Threaten To Disrupt the Middle East Peace Process

On January 23, 1995, by Executive Order 12947, I declared a national emergency to deal with the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States constituted by grave acts of violence committed by foreign terrorists that disrupt the Middle East peace process. By Executive Order 12947 of January 23, 1995, I blocked the assets in the United States, or in the control of United States persons, of foreign terrorists who threaten to disrupt the Middle East peace process. I also prohibited transactions or dealings by United States persons in such property. In 1996 and 1997, I transmitted notices of the continuation of this national emergency to the Congress and the **Federal Register**. Last year's notice of continuation was published in the **Federal Register** on January 22, 1997. Because terrorist activities continue to threaten the Middle East peace process and vital interests of the United States in the Middle East, the national emergency declared on January 23, 1995, and the measures that took effect on January 24, 1995, to deal with that emergency must continue in effect beyond January 23, 1998. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing the national emergency with respect to foreign terrorists who threaten to disrupt the Middle East peace process.

This notice shall be published in the **Federal Register** and transmitted to the Congress.



THE WHITE HOUSE,
January 21, 1998.

[FR Doc. 98–1756
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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.

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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 was published in the **Federal Register** on December 31, 1997.

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