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Thursday
February 5, 1998

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

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 791

Rules of NCUA Board Procedure; Promulgation of NCUA Rules and Regulations; Public Observation of NCUA Board Meetings

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: The NCUA Board amends its rules to revise and clarify Board procedures relating to the scheduling and subject matter of Board meetings. This amendment more clearly describes the content of the written submissions that are required when Board members want to call a special meeting or when a Board member wants to place items on a regular meeting agenda.

DATES: Effective on February 5, 1998.

ADDRESSES: National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428.

FOR FURTHER INFORMATION CONTACT: Robert M. Fenner, General Counsel, Office of the General Counsel, at the above address or telephone (703) 518–6540. E-mail questions may be sent to ogcmail@ncua.gov.

SUPPLEMENTARY INFORMATION: Part 791 of NCUA Rules and Regulations, 12 CFR Part 791, governs the manner in which the Board conducts NCUA business, including the scheduling and subject matter of Board meetings. These amendments clarify the NCUA Board's intention when it amended §§ 791.5(a)(2) and 791.6(a). 62 FR 64266, December 5, 1997.

Section 791.5(a)(2) is amended to specify that a request for a special meeting from two Board members must be made by submitting an NCUA B–1 form and Board Action Memorandum stating the specific issue(s) or action(s) to be considered by the Board.

A parallel amendment is being made to § 791.6(a). The NCUA B–1 form and the Board Action Memorandum that a Board member uses to submit an item for the agenda of the next regularly scheduled meeting must state the specific issue(s) or action(s) to be considered.

Immediate Effective Date

Because these amendments concern the rules of NCUA Board procedure, prior notice and comment are not required by 5 U.S.C. 553. These amendments are effective February 5, 1998.

Regulatory Procedures

Regulatory Flexibility Act

NCUA certifies that these amendments to part 791 will not have a significant impact on a substantial number of small credit unions. Accordingly, a regulatory flexibility analysis is not required. The rule affects internal NCUA Board operations only. Thus, it will not result in any additional burden for regulated institutions.

Paperwork Reduction Act

The amendments to the rule do not contain any collection of information requirements pursuant to the Paperwork Reduction Act of 1995 and regulations of the Office of Management and Budget.

Executive Order 12612

Part 791 only applies to NCUA and the NCUA Board. Accordingly, NCUA has determined that the rule will not have a substantial impact on the states or state interests. Further, the rule will not preempt provisions of state law or regulations.

List of Subjects in 12 CFR Part 791

Administrative practice and procedure, Sunshine Act.

By the National Credit Union Administration Board on January 22, 1998.

Becky Baker,

Secretary to the Board.

Accordingly, NCUA amends 12 CFR part 791 as follows:

PART 791—-RULES OF NCUA BOARD PROCEDURE; PROMULGATION OF NCUA RULES AND REGULATIONS; PUBLIC OBSERVATION OF NCUA BOARD MEETINGS

1. The authority citation for part 791 continues to read as follows:

Authority: 12 U.S.C. 1766, 1789 and 5 U.S.C. 552b.

2. Section 791.5 is amended by revising paragraph (a)(2) to read as follows:

§ 791.5 Scheduling of board meetings.

(a) * * *

(2) *Special meetings.* The Chairman shall call special meetings either on the Chairman's own initiative or within fourteen days of a request from two Board members that is accompanied by an NCUA B–1 form and a Board Action Memorandum that states the specific issue(s) or action(s) to be considered by the Board.

* * * * *

3. Section 791.6 is amended by revising the last sentence in paragraph (a) to read as follows:

§ 791.6 Subject matter of a meeting.

(a) *Agenda.* * * * Items shall be placed on the agenda by determination of the Chairman or, at the request of any Board Member, an item will be placed on the agenda of the next regularly scheduled meeting provided that the request is submitted at least ten days in advance of the next regularly scheduled meeting and is accompanied by an NCUA B–1 form and a Board Action Memorandum that states the specific issue(s) or action(s) to be considered by the Board.

* * * * *

[FR Doc. 98–2770 Filed 2–4–98; 8:45 am]
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SMALL BUSINESS ADMINISTRATION

13 CFR Part 107

Small Business Investment Companies

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: The Small Business Programs Improvement Act of 1996 made a number of changes to the Small Business Investment Act of 1958, as amended. For the Small Business

Investment Company program, these changes include provisions affecting capital requirements, Leverage eligibility and fees, and the status of Section 301(d) Licensees. This final rule implements the statutory provisions; in addition, it makes various technical corrections and clarifications, as well as other changes to provide greater fairness and flexibility in such areas as portfolio diversification requirements, Cost of Money and distributions by SBICs that have issued Participating Securities.

DATES: This final rule is effective February 5, 1998.

FOR FURTHER INFORMATION CONTACT: Leonard W. Fagan, Investment Division, at (202) 205–7583.

SUPPLEMENTARY INFORMATION: On October 14, 1997, SBA published a proposed rule to implement the provisions of Title II of Public Law 104–208 (September 30, 1996), entitled ''The Small Business Programs Improvement Act of 1996,'' which relate to small business investment companies (SBICs). See 62 FR 53253. The proposed rule also included certain other substantive changes, clarifications and technical corrections to the regulations governing SBICs, including those concerning portfolio diversification, Cost of Money, and the computation of distributions to be made by SBICs that have issued Participating Securities.

SBA received 10 comment letters on the proposed rule during the 30-day public comment period. This final rule includes changes based on some of the comments received. In addition, the final rule incorporates certain provisions of Public Law 105–135, which was enacted December 2, 1997.

Section 301(d) Licensees

Prior to October 1, 1996, an SBIC program applicant could be licensed under either section 301(c) or section 301(d) of the Small Business Investment Act of 1958, as amended (Act). A Section 301(d) Licensee, also known as a ''specialized SBIC'' or ''SSBIC'', agreed to invest only in businesses owned and controlled by socially or economically disadvantaged individuals. In return, a Section 301(d) Licensee received certain benefits not available to other SBICs, such as eligibility for certain types of subsidized Leverage (as defined in § 107.50).

Effective October 1, 1996, section 208(b)(3) of Public Law 104–208 repealed section 301(d) of the Act. However, the repeal provision was accompanied by the following language: ''The repeal * * * shall not be construed to require the Administrator to cancel, revoke, withdraw, or modify any license issued under section 301(d) of the Small Business Investment Act of 1958 before the date of enactment of this Act.''

At the same time, section 208(d) of Public Law 104–208 amended the Act to eliminate subsidized SBA Leverage. Such Leverage was previously available to SSBICs in the form of Debentures with an interest rate subsidy or Preferred Securities with a 4 percent dividend. Although subsidized Leverage can no longer be issued, the Act does not require SSBICs to prepay or redeem such Leverage prior to its scheduled maturity. In addition, an SSBIC may apply for any type of non-subsidized Leverage (Debentures or Participating Securities) for which it is eligible.

To implement these statutory changes, SBA proposed revisions to the definitions of ''Section 301(d) Licensee'' and ''Preferred Securities'' found in § 107.50, as well as to §§ 107.120, 107.230(d)(4), 107.1100, 107.1160, 107.1400, 107.1420 and 107.1430; §§ 107.110 and 107.1110 were proposed to be removed. These sections are finalized with one modification, as discussed hereafter.

SBA received one comment concerning proposed § 107.120. The proposed rule would have allowed an existing SSBIC which was licensed as a subsidiary of another Licensee or group of Licensees to continue its operations under the same conditions as before; however, an existing SSBIC that was not already a subsidiary would not have been permitted to become one. The commenter suggested that Section 301(d) Licensees should continue to have access to this option. Although the current provision has rarely been used, SBA has no objection to its continued availability and has revised the final rule accordingly.

Common Control

SBA proposed to broaden a portion of the defined term ''Common Control'' in § 107.50. The purpose of the change was to reflect the way the term is actually used in the regulations. The definition is adopted as proposed.

Management and Ownership Diversity

Proposed § 107.150 is adopted without change. SBA received one comment on this section expressing support for the general requirement that a Licensee which plans to obtain SBA Leverage must have diversity between management and ownership. Under the revised regulation, the investors relied upon to satisfy the diversity requirement cannot be Affiliates of one another. In addition, SBA has discretion to reject for diversity purposes an investor whose ownership interest is not significant, either in terms of absolute dollars or percentage of ownership.

These changes reflect policies which SBA has been developing in its review of license applications. SBA is continuing to refine these guidelines and expects to incorporate them into its standard operating procedures.

Capital Requirements

Under the Act as amended by section 208(c) of Public Law 104–208, SBICs licensed on or after October 1, 1996 must meet increased minimum capital requirements. These requirements are implemented in § 107.210, which is finalized as proposed. Under this section, a company that does not wish to be eligible to issue Participating Securities must have Regulatory Capital of at least $5,000,000. As an exception to this general rule, the regulation provides that SBA can license an applicant with Regulatory Capital of at least $3,000,000, but only if the applicant meets certain conditions. As mandated by the Act, this exception is limited to those instances where ''special circumstances and good cause'' can be shown.

A company that wishes to be eligible to apply for Participating Securities must have Regulatory Capital of at least $10,000,000, with a permitted exception for an applicant which demonstrates to SBA's satisfaction that it can be financially viable over the long term with a lower amount (but under no circumstances less than $5,000,000). The regulation does not permit prospective Participating Securities issuers to be licensed pursuant to the exception available to other applicants, under which a license may be granted with Regulatory Capital as low as $3,000,000. For applicants planning to issue Participating Securities, SBA believes that the ability to meet the standard minimum capital requirement is an important indicator of the credibility of management. SBA also doubts that any such applicant can demonstrate financial viability with Regulatory Capital of only $3,000,000, even on a temporary basis.

In addition to the Regulatory Capital requirements described above, § 107.210(a) also requires any company licensed on or after October 1, 1996, to have Leverageable Capital of at least $2,500,000. Leverageable Capital is a subset of Regulatory Capital; while both include capital actually contributed to a Licensee by its private investors, the major difference between them is that Regulatory Capital also includes the Licensee's unfunded binding

commitments from Institutional Investors.

SBICs licensed before October 1, 1996, are not required to increase their capital. Under § 107.210(b), such companies must continue to meet the applicable minimum capital requirements under the regulations in effect on September 30, 1996 (see §§ 107.210 and 107.220 as in effect on that date). These requirements vary depending upon the date a company was licensed and the type of SBA Leverage it has issued or wants to issue.

See also the section of this preamble entitled ''Eligibility for Leverage and Leverage Commitments''.

Valuations

Section 208(f)(2) of Public Law 104–208 included one provision related to the valuation of portfolio securities held by Licensees which was not already reflected in the regulations. Under this provision, as part of the annual audit of a Licensee's financial statements, the independent auditor must provide to SBA a statement that the Licensee's valuations were performed in accordance with its SBA-approved valuation policy, as required by section 310(d)(2) of the Act. SBA included this requirement in proposed § 107.503(e), which is finalized without change.

Reports To Be Filed With SBA

SBA received one comment on proposed § 107.660(d), which would have required a Licensee to notify SBA if an officer, director, general partner or other Control Person is charged with or convicted of any criminal offense other than a misdemeanor involving a minor motor vehicle violation. The purpose of the proposed rule was to give SBA a mechanism for updating information typically provided at the time of licensing by key personnel associated with a license applicant. The commenter pointed out that the broad regulatory definition of ''Control Person'' may cause the notification requirement to apply to persons who were not required to provide personal history statements to SBA as part of the licensing process and who have no direct role in the management of the SBIC.

SBA agrees that the proposed regulation may, under certain circumstances, unnecessarily include persons who are not involved in the operations of a Licensee. The final rule is modified accordingly, so that the notification requirement applies to any officer, director or general partner of a Licensee, and any other person who was required to provide a personal history statement to SBA in connection with the SBIC's license (either at the time of licensing or subsequently, as in the case of a new investor who acquires a significant interest in an existing SBIC).

Financing of Smaller Enterprises

Proposed § 107.710 is adopted without change. This section includes a provision applicable to SBICs licensed on or before September 30, 1996, which issue Leverage after that date and which do not meet the current minimum capital requirement (Regulatory Capital of at least $5,000,000 for Debentures or at least $10,000,000 for Participating Securities). For such Licensees, at least 50 percent of the aggregate dollar amount of their Financings extended after September 30, 1996 must be invested in Smaller Enterprises.

Under § 107.710(e), a Licensee which has not achieved the required percentage of investments in Smaller Enterprises is allowed one additional year to bring its portfolio into compliance. However, such a Licensee is not eligible for additional Leverage until it reaches the required percentage. See also the section of this preamble entitled ''Eligibility for Leverage and Leverage Commitments''.

Passive Businesses

SBA received five comments on proposed § 107.720(b), which dealt with the financing of passive businesses. SBICs are generally prohibited from investing in passive businesses, but an exception is provided for holding companies which pass through substantially all of the financing proceeds to an active subsidiary. The proposed rule would have modified the existing exception by allowing a holding company to pass through proceeds to more than one operating company, rather than a single company, provided that each operating company qualified as a ''subsidiary'' of the holding company. A subsidiary company was defined as one in which the financed passive business owns at least 50 percent of the voting securities.

All of the commenters supported the provision allowing proceeds to be passed through a holding company to more than one operating company. However, four of the commenters were concerned that the proposed 50 percent ownership requirement would foreclose another type of investment structure which may be important to certain Licensees organized as limited partnerships. Specifically, for a partnership with tax exempt investors (such as pension funds), direct investment in an unincorporated business is considered highly undesirable because of the possibility that the tax exempt investors will be deemed to have ''unrelated business taxable income'' under section 511 of the Internal Revenue Code of 1986, as amended. The common solution to this problem is for the partnership to form a wholly-owned corporate subsidiary which receives funds from its parent and in turn reinvests these funds in one or more unincorporated operating companies. If an SBIC creates a passive corporation for this purpose, it is likely that the corporation would own less than 50 percent of the voting securities of the financed Small Business. Therefore, the investment would not qualify for the exception in proposed § 107.720(b)(2).

SBA does not wish to prevent partnership Licensees from investing in unincorporated Small Businesses, but it has a number of concerns. First, SBA believes that when a Licensee makes an investment in a holding company which is unrelated to the Licensee and is, in fact, a portfolio company, the requirement that proceeds be passed through only to 50 percent-owned subsidiaries should remain. This provision ensures that there is a significant relationship between the financed passive business and the active businesses which ultimately receive the proceeds, and that the passive business is not functioning simply as a reinvestor.

Second, SBA believes that there may be significant credit risks associated with the formation of corporate subsidiaries by SBICs. For example, Licensees are prohibited by law from filing for bankruptcy protection, providing SBA with an important safeguard in its effort to manage the government's financial risk. However, when a Licensee holds assets through a subsidiary, the possibility arises that these assets can be shielded through a bankruptcy filing by the subsidiary.

To accommodate the Agency's concerns as well as those of certain Licensees, SBA is finalizing § 107.720 as follows: The exception in proposed § 107.720(b)(2) is adopted without change, and a further exception is added in a new paragraph (b)(3). Under this new provision, a partnership Licensee may form one or more wholly-owned corporations with SBA's prior written approval. Such corporations must be formed for the sole purpose of providing Financing to one or more eligible, unincorporated Small Businesses. The formation of such corporations is limited to situations in which a direct investment in the Small Business would cause one or more of the Licensee's investors to have unrelated business taxable income. The regulation resolves

potential contradictions within part 107 by specifying that ownership of such a corporation does not violate the limitations on Control in § 107.865(a) or the conflict of interest prohibitions in § 107.730(a).

SBA wishes to emphasize that the requirement for prior written approval to form a subsidiary is consistent with longstanding practice within the SBIC program. SBA's concern in this regard relates not only to credit risks associated with the shift of assets from a Licensee to its subsidiaries, but also to the purpose for which a subsidiary is formed and whether its proposed function is consistent with the purpose of an SBIC as set forth in the Act.

Co-Investment With Associates

SBA received two comments in support of proposed § 107.730(d)(3)(iv), which is finalized without change. Under this provision, co-investments by a non-leveraged SBIC and its non-SBIC Associate are presumed to be fair and equitable to the SBIC, so that no specific demonstration of equity is required.

Portfolio Diversification Requirements (''Overline'' Limit)

SBA received four comments on proposed § 107.740, under which a leveraged SBIC may not have more than 20 percent of its Regulatory Capital invested in or committed to a single Small Business or group of related businesses, unless SBA gives its prior written approval (for SSBICs, the limit is 30 percent of Regulatory Capital). The proposed rule was intended to address a problem faced by an SBIC which reduces its Regulatory Capital in a manner permitted by the regulations (such as when a Participating Securities issuer returns capital to its investors), and then finds that one or more of its existing investments now exceed its reduced overline limitation. SBA's proposed solution was to base a Licensee's maximum permitted investment in or commitment to a Small Business on its Regulatory Capital at the time the investment or commitment is made.

All of the commenters supported this change, but suggested that SBA go further. One commenter felt that an SBIC should have the ability to make follow-on investments in a Small Business based on the Licensee's Regulatory Capital at the time the initial investment was made. The other commenters argued more broadly that an SBIC, particularly a limited life partnership which expects to return capital to investors as investments are harvested, should be permitted to base its overline limit on its initial Regulatory Capital (assuming no further increases), with no reduction for any subsequent decreases in Regulatory Capital. The commenters all suggested that an SBIC should not be forced to reduce the intended investment size reflected in its business plan because of an early return of capital; one commenter pointed out that this imposes a penalty which is particularly unjustified in the case of an SBIC which makes a distribution resulting from a profitable realization of a portfolio company investment.

SBA understands these concerns, particularly with respect to an SBIC organized as a limited life partnership which does not reinvest capital. However, SBA believes that the suggested changes are prohibited by section 306(a) of the Act. Therefore, the proposed rule is finalized without change.

Cost of Money

SBA proposed three revisions to § 107.855, which sets forth limits on interest rates and other charges that SBICs may impose on Small Businesses, generally referred to as ''Cost of Money''. These provisions are finalized as proposed. Two of the changes dealt with the computation of the Cost of Money ceiling, mainly the circumstances under which Licensees may include in the computation the 1 percent additional charge on Leverage which is payable to SBA. The other change involved the treatment of detachable stock purchase warrants.

The four comments received on this section all strongly supported proposed § 107.855(g)(1), which contained an exclusion from Cost of Money for a discount on the loan portion of a Debt Security, if the discount results solely from the allocation of fair value to detachable stock purchase warrants as required by generally accepted accounting principles. One commenter suggested that the exclusion be extended to any discount resulting from the allocation of fair value to an equity feature of a Debt Security, without regard to whether the equity feature was in the form of a warrant, common stock or other equity equivalent. SBA did not expand the proposed language because it has not encountered this type of Cost of Money issue with equity features other than warrants; if such an issue arises in the future, the Agency will consider whether further change is desirable.

Control

Proposed § 107.865 contained two clarifications to the existing regulation concerning Control of a Small Business by an SBIC, which are finalized without change. SBA received one comment concerning proposed § 107.865(c), which set forth the circumstances under which a Licensee can rebut a presumption of Control. The comment did not specifically relate to the proposed change, which was merely an editorial clarification. It concerned the interpretation of the rebuttal condition in § 107.865(c)(2) which states, in part, that ''[m]anagement of the Small Business can elect at least 40 percent of the board members of a corporation, general partners of a limited partnership, or managers of a limited liability company, as appropriate, and the Investor Group can elect no more than 40 percent.''

The commenter provided the following scenario: There are five seats on the Small Business's board of directors, three to be filled by management and two by the Investor Group. One of the seats controlled by management is vacant, so the actual board composition represents a 50–50 split between management and the Investor Group. The commenter suggested that these circumstances satisfy the rebuttal condition in § 107.865(c)(2) because management can fill three of the five board seats (60 percent), while the Investor Group can fill the remaining two (40 percent). The vacant seat should not affect the rebuttal, because the management of the Small Business can exercise its right to fill the seat and assert control of the board at any time. As long as there are no restrictions on management's ability to do so, SBA agrees with this interpretation of the regulation and does not believe that any further clarification is needed.

Eligibility for Leverage and Leverage Commitments

Section 208 of Public Law 104–208 established certain requirements which an SBIC must satisfy in order to obtain SBA Leverage. These requirements are implemented by § 107.1120 (c) and (d), which are adopted without change from the proposed rule. Under these provisions, an SBIC licensed after September 30, 1996, with Regulatory Capital of less than $5,000,000 is ineligible for Leverage until it reaches the $5,000,000 level. An SBIC licensed on or before September 30, 1996, is not required to increase its capital in order to obtain additional Leverage; however, if its Regulatory Capital is less than $5,000,000 ($10,000,000 for a company seeking to issue Participating Securities), it must certify in writing that at least 50 percent of the aggregate dollar amount of its Financings

extended after September 30, 1996 will be provided to Smaller Enterprises (see also § 107.710(c)). Finally, any Licensee seeking Leverage must certify in writing that it is in compliance with the general requirement to provide 20 percent of its total Financings to Smaller Enterprises under § 107.710(b).

SBA is also finalizing without change the revisions proposed in §§ 107.1200, 107.1230 and 107.1240 to eliminate unnecessary limitations on the amounts of Leverage commitments and draws and to facilitate the interim Leverage funding mechanism which SBA is now developing.

Leverage Fees

SBA proposed changes in §§ 107.1130 and 107.1210 to implement provisions of section 208(d)(6) of Public Law 104–208 which affect the fees SBICs must pay in order to obtain SBA Leverage. Proposed § 107.1130 is adopted without change; however, § 107.1210 has been revised as a result of legislation enacted after publication of the proposed rule.

Under § 107.1130(a), a Licensee must pay a nonrefundable ''leverage fee'' to SBA when Debentures or Participating Securities are issued. The fee is 3 percent of the face amount of the Leverage issued, replacing the 2 percent user fee and the 1 percent commitment fee previously in effect. Section 107.1130(d) requires a Licensee to pay to SBA an additional ''Charge'' on Debentures and Participating Securities (see also § 107.50 for the definition of this new term). For both types of Leverage, the Charge is 1 percent per annum. The Charge is payable under the same terms and conditions as the interest on Debentures or the Prioritized Payments on Participating Securities, as applicable. Thus, a Debenture issuer would pay the Charge in two semi-annual installments together with its interest payments. In contrast, a Participating Securities issuer would pay the Charge only when it had profits and was distributing Prioritized Payments under § 107.1540. The Charge does not apply to Leverage drawn down against a commitment obtained from SBA on or before September 30, 1996.

Under proposed § 107.1210(a), if a Licensee received a Leverage commitment from SBA, it would have been required to prepay the 3 percent leverage fee at the time it received the commitment. However, section 215(d) of Public Law 105–135, enacted December 2, 1997, dividend payment of the leverage fee into two stages for Licensees which receive a Leverage commitment: A nonrefundable fee equal to 1 percent of the committed amount must be paid when the commitment is received, and 2 percent of the amount of each draw must be paid when funds are drawn down. To implement this statutory mandate, the final rule is modified accordingly.

Participating Securities—General

Proposed § 107.1500 is adopted without change. This section contains clarifications and minor revisions concerning the redemption and priority in liquidation of Participating Securities, and eliminates the requirement for a Licensee to maintain a specified level of Equity Capital Investments.

Liquidity Requirements for Participating Securities

The proposed rule included two minor changes to the liquidity requirements in § 107.1505. The section is finalized as proposed. SBA received two comments in support of the revised computation of the liquidity ratio in § 107.1505(b). Both commenters stated that the change in the weighting of publicly traded securities will simplify the computation and also will eliminate the ''double discounting'' of such securities.

Earmarked Profit (Loss)

Section 107.1510 is adopted as proposed. This section contains minor technical revisions intended to simplify the computation of Earmarked Profit (Loss) by Participating Securities issuers.

Prioritized Payments

Section 107.1520 tells a Licensee how to compute Prioritized Payments and how to determine whether it has profits which will cause Prioritized Payments to become ''earned'' and therefore payable to SBA. Four revisions to this section were proposed and are adopted without change.

First, the regulation implements a provision of Public Law 104–208 by including ''Charges'' (the 1 percent annual fee discussed in this preamble under the heading ''Leverage Fees'') on outstanding Participating Securities in the required computations. Although Charges are not part of Prioritized Payments, they are payable under the same terms and conditions.

Second, § 107.1520(a) incorporates a technical change intended to facilitate the interim Leverage funding mechanism currently under consideration by SBA.

Third, the computation of profit for the purposes of § 107.1520 is revised under § 107.1520(d). Under the previous regulation, a Licensee's ''profit'' was its cumulative Earmarked Profit minus its cumulative Earned Prioritized Payments from prior periods. This computation ignored the fact that some or all of the profit computed in this manner may have already been distributed under other sections of the regulations, either to SBA as Profit Participation or to the Licensee's private investors. The revised rule takes prior profit distributions into account in determining whether a Licensee has profits which can be used to pay Prioritized Payments. SBA received two comments in support of this change.

Finally, § 107.1520(f) provides additional detail concerning the computation of Adjustments, a type of compounding of unpaid Prioritized Payments.

Profit Participation

Section 107.1530 is adopted as proposed. SBA received two comments in support of the proposed regulation. The section contains several changes affecting the computation of Profit Participation, which must be allocated to SBA by a Participating Securities issuer when it has earned profits over and above the amount necessary to pay its Prioritized Payments in full. Profit Participation is determined by computing a ''Base'' and a ''Profit Participation Rate'', and multiplying the Base by the Rate. The rule revises the computation of the Base with respect to certain losses incurred by a Licensee in prior periods and provides a simpler method of computing the ''PLC ratio'', which is one of the variables in the Profit Participation Rate formula. The rationale for these changes is discussed in detail in the preamble to the proposed rule.

Tax Distributions

Proposed § 107.1550, which dealt with tax distributions by Participating Securities issuers organized as limited partnerships or similar flow-through entities, is adopted as final with one modification. The proposed changes consisted of clarifications and a minor technical revision, as discussed in the preamble to the proposed rule. In the final rule, SBA is incorporating one additional change to correct an error in § 107.1550(c)(3). The previous regulation stated that SBA would apply its share of any tax distribution to the Profit Participation owed by a Licensee under § 107.1530. However, there are certain circumstances under which SBA's share of a tax distribution may exceed the Profit Participation owed. In such cases, SBA will apply its share first to any Profit Participation, and then generally as a redemption of Participating Securities in order of issue

(in rare cases, a Licensee may owe other amounts which will be considered in the application of the distribution). The final rule incorporates this correction by indicating that SBA will apply its share of tax distributions in the same order specified for other profit-based distributions in § 107.1560(g).

Distributions Based on "Retained Earnings Available for Distribution"

SBA proposed minor revisions in § 107.1560(a)(1), (a)(4), (b) and (e) which are finalized without change. These provisions clarify various aspects of the calculation of distributions by Participating Securities issuers who have Retained Earnings Available for Distribution remaining after paying Prioritized Payments and tax distributions.

Optional Distributions Not Based on READ

Proposed § 107.1570(b) is adopted without change. SBA received two comments in support of the proposed section, which dealt with conditions under which a Licensee which has no Retained Earnings Available for Distribution can make optional distributions to its private investors and SBA. Both commenters agreed with SBA that the change in § 107.1570(b)(1)(ii) removes an unintended limitation on Licensees' ability to make such distributions.

Notice of Participating Securities Distributions

The proposed rule included a prior notice requirement for all distributions by SBICs which have issued Participating Securities. SBA is finalizing as proposed the language establishing this requirement in §§ 107.1540 through 107.1570, which govern the various types of distributions. A Licensee must notify SBA 10 business days before any planned distribution, unless the Agency permits otherwise. SBA received one comment agreeing that such notification is appropriate given the complexity of the distribution rules. The commenter did not believe that the requirement would unreasonably constrain a Licensee's freedom of action.

Timing of Participating Securities Distributions

Section 107.1575 is adopted as proposed. SBA received three comments on the proposed rule, all of which supported the additional flexibility given to Participating Securities issuers wishing to make distributions on dates other than the established quarterly "Payment Dates" (February 1, May 1, August 1 and November 1 of each year).

All of the commenters raised one issue which may arise when a Licensee makes a distribution to SBA which includes a redemption of Participating Securities. The proposed rule specified that in such cases, the effective date of the redemption would be the next Payment Date following the distribution date; therefore, a Licensee would be responsible for Prioritized Payments through the next Payment Date on the amount of Participating Securities to be redeemed. SBA felt this provision was necessary because Participating Securities are funded through the purchase by investors of Trust Certificates, under which principal can be returned only on Payment Dates.

The commenters understood why SBA must continue to "charge" the Prioritized Payment on Participating Securities up to the next Payment Date, but asked whether SBA could provide a mechanism (such as an escrow provision) which would allow a Licensee to earn interest on any redemption payment that it distributes to SBA, from the date of distribution until the next Payment Date. SBA is sympathetic to this request and believes that the result would be fair both to Licensees and to the Agency. To facilitate such an arrangement, SBA is exploring the possibility of allowing SBICs to establish individual escrow accounts at a designated financial institution to hold the proceeds of distributions made on dates other than Payment Dates. The accounts would be for the benefit of SBA, but any interest income would inure to the benefit of the Licensee. Each SBIC would be responsible for any expenses incurred in establishing and maintaining its account. The use of an escrow account would be an option available to SBICs, but would not be required. SBA does not believe that such an arrangement requires a change in the regulations. SBA will provide further information to Licensees as soon as possible.

In-Kind Distributions by Licensees

SBA received three comments on proposed § 107.1580. The section sets forth the conditions under which a Participating Securities issuer can make distributions in the form of securities rather than cash. All of the commenters supported the proposed revision permitting a Licensee to pay Prioritized Payments under § 107.1540 via an in-kind distribution. Two of the commenters suggested that SBA also consider allowing SBICs to make tax distributions under § 107.1550 in the form of securities. SBA feels strongly that tax distributions should be made on a cash-only basis. As stated in the preamble to the proposed rule, the intent of such distributions is to provide investors in flow-through entities with sufficient cash to pay their anticipated tax liabilities, and an in-kind distribution does not satisfy this purpose. Therefore, the proposed rule is finalized without change.

Exchange of Debentures for Participating Securities

Proposed §§ 107.1585 and 107.1590 are finalized without change. In these sections, references to the retirement of Debentures through the issuance of Preferred Securities are eliminated, and provisions governing the retirement of Debentures through the issuance of Participating Securities are reorganized and reworded without substantive change.

Characteristics of SBA's Leverage Guarantee

Section 107.1720 is adopted as proposed. The section restores language setting forth the unconditional nature and other characteristics of SBA's guarantee which was inadvertently dropped in a previous regulatory revision.

Capital Impairment

Proposed § 107.1830(a) is finalized without change. The provision clarifies that SBA Leverage is subject to the Capital Impairment regulations in effect on the date the Leverage is issued. In addition, it requires a Licensee to comply with any specific conditions to which it has agreed by contract with SBA.

Miscellaneous Corrections and Editorial Changes

The proposed definition of "Commitment" in § 107.50 is finalized without change. The definition is reworded in the third person (*i.e.*, to refer to "a Licensee" instead of "you") to conform to the style in which the other definitions are written.

The proposed correction of the SIC code for Operative Builders in § 107.720(c) is adopted as final.

Proposed § 107.1600(a) is adopted as final. Under this provision, references to section 321 of the Act are changed to section 319, reflecting the amendment of the Act by Public Law 104–208. In addition, to implement section 215(e) of Public Law 105–135, § 107.1600(b) is revised to state that SBA will issue guarantees of Leverage and of Trust Certificates at intervals of not more than six months, rather than three months.

The proposed definition of Trust Certificate Rate is adopted as final. The definition incorporates certain technical changes to facilitate the interim funding mechanism currently under consideration by SBA.

Limited Liability Companies

Section 208(b)(1) of Public Law 104–208 amended the Act to permit SBICs to organize as limited liability companies (LLCs). SBA is studying the legal and administrative issues which may arise in connection with LLCs, and will publish a proposed rule to implement this form of organization by SBICs at a later date.

Although SBA regulations do not yet provide for LLC Licensees, SBA has the statutory authority to license such companies. SBA's current policy is to accept a license application from an LLC only if the LLC is organized under Delaware's Limited Liability Company Act and does not intend to issue Participating Securities, which SBA has not yet developed in a form suitable for use by an LLC. SBA may reconsider these limitations as SBA acquires greater familiarity with the LLC form of organization and as a body of case law is created under the various state LLC laws. The adoption of a Uniform LLC Act by a significant number of states also would induce SBA to reexamine its current preference for Delaware law.

Until SBA regulations are revised to accommodate LLC Licensees, such Licensees should understand that SBA regards the members of the LLC to be equivalent to the general partners in a partnership Licensee unless the LLC's operating agreement clearly indicates otherwise. Thus, all members of an LLC Licensee will automatically be considered Control Persons and Associates of the Licensee unless the LLC's operating agreement vests management authority only in certain members of the company.

Compliance With Executive Orders, 12612, 12778, and 12866, the Regulatory Flexibility Act (5 U.S.C. 601, et seq.), and the Paperwork Reduction Act (44 U.S.C. Ch. 35)

SBA certifies that this final rule will not be a significant regulatory action for purposes of Executive Order 12866 because it will not have an annual effect on the economy of more than $100 million, and that it will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* The purpose of the rule is to implement provisions of Public Law 104–208 which relate to small business investment companies, and to make certain other changes, primarily technical corrections and clarifications, to the regulations governing SBICs.

For purposes of the Paperwork Reduction Act, 44 U.S.C. Ch. 35, SBA certifies that this final rule will contain no new reporting or recordkeeping requirements.

For purposes of Executive Order 12612, SBA certifies that this final rule will not have any federalism implications warranting the preparation of a Federalism Assessment.

For purposes of Executive Order 12778, SBA certifies that this final rule is drafted, to the extent practicable, in accordance with the standards set forth in Section 2 of that Order.

List of Subjects in 13 CFR Part 107

Investment companies, Loan programs—business, Reporting and recordkeeping requirements, Small businesses.

For the reasons set forth above, part 107 of title 13 of the Code of Federal Regulations is amended as follows:

PART 107—SMALL BUSINESS INVESTMENT COMPANIES

1. The authority citation for part 107 is revised to read as follows:

Authority: 15 U.S.C. 681 *et seq.*, 683, 687(c), 687b, 687d, 687g and 687m.

2. Section 107.50 is amended by revising the definitions for Commitment, Common Control, Preferred Securities, Section 301(d) Licensee, and Trust Certificate Rate, and adding in alphabetical order a definition of Charge, to read as follows:

§ 107.50 Definitions of terms.

* * * * *

Charge means an annual fee on Leverage issued on or after October 1, 1996 (except for Leverage issued pursuant to a commitment made by SBA before October 1, 1996), which is payable to SBA by Licensees, subject to the terms and conditions set forth in § 107.1130(d).

* * * * *

Commitment means a written agreement between a Licensee and an eligible Small Business that obligates the Licensee to provide Financing (except a guarantee) to that Small Business in a fixed or determinable sum, by a fixed or determinable future date. In this context the term ''agreement'' means that there has been agreement on the principal economic terms of the Financing. The agreement may include reasonable conditions precedent to the Licensee's obligation to fund the commitment, but these conditions must be outside the Licensee's control.

Common Control means a condition where two or more Persons, either through ownership, management, contract, or otherwise, are under the Control of one group or Person. Two or more Licensees are presumed to be under Common Control if they are Affiliates of each other by reason of common ownership or common officers, directors, or general partners; or if they are managed or their investments are significantly directed either by a common independent investment advisor or managerial contractor, or by two or more such advisors or contractors that are Affiliates of each other. This presumption may be rebutted by evidence satisfactory to SBA.

* * * * *

Preferred Securities means nonvoting preferred stock or nonvoting limited partnership interests issued to SBA prior to October 1, 1996, by a Section 301(d) Licensee. Such securities were issued at par value in the case of preferred stock, or at face value in the case of preferred limited partnership interests.

* * * * *

Section 301(d) Licensee means a company licensed prior to October 1, 1996 under section 301(d) of the Act as in effect on the date of licensing, that may provide Assistance only to Disadvantaged Businesses. A Section 301(d) Licensee may be organized as a for-profit corporation, as a non-profit corporation, or as a limited partnership.

* * * * *

Trust Certificate Rate means a fixed rate determined by the Secretary of the Treasury at the time Participating Securities or Debentures are pooled, taking into consideration the current average market yield on outstanding marketable obligations of the United States with maturities comparable to the maturities of the Trust Certificates being guaranteed by SBA, adjusted to the nearest one-eighth of one percent.

* * * * *

§ 107.110 [Removed]

3. Section 107.110 is removed.

4. Section 107.120 is revised to read as follows:

§ 107.120 Special rules for a Section 301(d) Licensee owned by another Licensee.

With SBA's prior written approval, a Section 301(d) Licensee may operate as the subsidiary of one or more Licensees (participant Licensees), subject to the following:

(a) Each participant Licensee must own at least 20 percent of the voting securities of the Section 301(d) Licensee.

(b) A participant Licensee must treat its entire capital contribution to the subsidiary as a reduction of its Leverageable Capital. The participant Licensee's remaining Leverageable Capital must be sufficient to support its outstanding Leverage.

(c) A participant Licensee may not transfer its Leverage to a subsidiary Section 301(d) Licensee.

5. In § 107.150, the introductory text of paragraph (a)(1) is revised to read as follows:

§ 107.150 Management and ownership diversity requirement.

* * * * *

(a) *Requirement one.* * * *

(1) At least 30 percent of your Regulatory Capital and Leverageable Capital must be owned by Persons unrelated to management. To satisfy this requirement, such Persons must not be your Associates (except for their status as your shareholders or limited partners) and must not Control, be Controlled by, or be under Common Control with any of your Associates. You must have as investors at least three such Persons who are not Affiliates of one another and whose investments are significant in both dollar and percentage terms, as determined by SBA. As an alternative, you may substitute one investor who is an acceptable Institutional Investor for the three investors who are otherwise required. For purposes of this paragraph (a)(1), the following Institutional Investors are acceptable:

* * * * *

6. Section 107.210 is revised to read as follows:

§ 107.210 Minimum capital requirements for Licensees.

(a) *Companies licensed on or after October 1, 1996.* A company licensed on or after October 1, 1996 must have Leverageable Capital of at least $2,500,000 and must meet the applicable minimum Regulatory Capital requirement:

(1) *Licensees other than Participating Securities issuers.* A Licensee that does not wish to be eligible to apply for Participating Securities must have Regulatory Capital of at least $5,000,000. As an exception to this general rule, SBA in its sole discretion and based on a showing of special circumstances and good cause may license an applicant with Regulatory Capital of at least $3,000,000, but only if the applicant:

(i) Has satisfied all licensing standards and requirements except the minimum capital requirement, as determined solely by SBA;

(ii) Has a viable business plan reasonably projecting profitable operations; and

(iii) Has a reasonable timetable for achieving Regulatory Capital of at least $5,000,000.

(2) *Participating Securities issuers.* A Licensee that wishes to be eligible to apply for Participating Securities must have Regulatory Capital of at least $10,000,000, unless it demonstrates to SBA's satisfaction that it can be financially viable over the long term with a lower amount. Under no circumstances can the Licensee have Regulatory Capital of less than $5,000,000.

(b) *Companies licensed before October 1, 1996.* A company licensed before October 1, 1996 must meet the minimum capital requirements applicable to such company, as required by the regulations in effect on September 30, 1996. See § 107.1120(c)(2) for Leverage eligibility requirements.

§ 107.220 [Removed]

7. Section 107.220 is removed.

8. Section 107.230 is amended by revising the introductory text of paragraph (d)(4) to read as follows:

§ 107.230 Permitted sources of Private Capital for Licensees.

* * * * *

(d) *Qualified Non-private Funds.* * * *

(4) Funds invested in or committed in writing to any Section 301(d) Licensee prior to October 1, 1996, from the following sources:

* * * * *

9. In § 107.503, paragraphs (a), (b) and (e), and the heading and first sentence of paragraph (c), are revised to read as follows:

§ 107.503 Licensee's adoption of an approved valuation policy.

(a) *Valuation guidelines.* You must prepare, document and report the valuations of your Loans and Investments in accordance with the Valuation Guidelines for SBICs issued by SBA. These guidelines may be obtained from SBA's Investment Division.

(b) *SBA approval of valuation policy.* You must have a written valuation policy approved by SBA for use in determining the value of your Loans and Investments. You must either:

(1) Adopt without change the model valuation policy set forth in section III of the Valuation Guidelines for SBICs; or

(2) Obtain SBA's prior written approval of an alternative valuation policy.

(c) *Responsibility for valuations.* Your board of directors or general partner(s) will be solely responsible for adopting your valuation policy and for using it to prepare valuations of your Loans and Investments for submission to SBA. * * *

* * * * *

(e) *Review of valuations by independent public accountant.* (1) For valuations performed as of the end of your fiscal year, your independent public accountant must review your valuation procedures and the implementation of such procedures, including adequacy of documentation.

(2) The independent public accountant's report on your audited annual financial statements (SBA Form 468) must include a statement that your valuations were prepared in accordance with your approved valuation policy established in accordance with section 310(d)(2) of the Act.

10. Section 107.660 is amended by redesignating paragraph (d) as paragraph (e) and by adding a new paragraph (d) to read as follows:

§ 107.660 Other items required to be filed by Licensee with SBA.

* * * * *

(d) *Notification of criminal charges.* If any officer, director, or general partner of the Licensee, or any other person who was required by SBA to complete a personal history statement in connection with your license, is charged with or convicted of any criminal offense other than a misdemeanor involving a minor motor vehicle violation, you must report the incident to SBA within 5 calendar days. Such report must fully describe the facts which pertain to the incident.

* * * * *

11. Section 107.710 is amended by adding a sentence at the end of paragraph (e) and by revising paragraphs (b) and (c) to read as follows:

§ 107.710 Requirement to Finance Smaller Enterprises.

* * * * *

(b) *Smaller Enterprise Financings.*—(1) *General rule.* At the close of each of your fiscal years, at least 20 percent of the total dollar amount of the Financings you extended since April 25, 1994 must have been invested in Smaller Enterprises. If you were licensed after April 25, 1994, the 20 percent requirement applies to the total dollar amount of the Financings you

extended since you were licensed plus any pre-licensing investments approved by SBA for inclusion in your Regulatory Capital.

(2) *Phase-in for new Licensees.* At the close of your first full fiscal year after licensing, at least 10 percent of the total dollar amount of the Financings you extended, including any pre-licensing investments approved by SBA for inclusion in your Regulatory Capital, must have been invested in Smaller Enterprises. At the close of each fiscal year thereafter, you must meet the requirement in paragraph (b)(1) of this section.

(c) *Special requirement for certain leveraged Licensees.*—(1) This paragraph (c) applies if you were licensed on or before September 30, 1996, and you issued Leverage after that date, and you have Regulatory Capital of:

(i) Less than $10,000,000 if such Leverage was Participating Securities; or

(ii) Less than $5,000,000 if such Leverage was Debentures.

(2) At the close of each of your fiscal years, at least 50 percent of the total dollar amount of the Financings you extended after September 30, 1996 must have been invested in Smaller Enterprises.

* * * * *

(e) *Non-compliance with this section.* * * * However, you will not be eligible for additional Leverage until you reach the required percentage (see § 107.1120(c) and (d)).

12. In § 107.720, paragraph (b)(2) is revised, paragraph (b)(3) is added, and the introductory text of paragraph (c)(1) is revised to read as follows:

§ 107.720 Small Businesses that may be ineligible for Financing.

* * * * *

(b) *Passive Businesses.* * * *

(2) *Exception for pass-through of proceeds to subsidiary.* You may finance a passive business if it is a Small Business and it passes substantially all the proceeds through to one or more subsidiary companies, each of which is an eligible Small Business that is not passive. For the purpose of this paragraph (b)(2), ''subsidiary company'' means a company in which at least 50 percent of the outstanding voting securities are owned by the Financed passive business.

(3) *Exception for certain Partnership Licensees.* With the prior written approval of SBA, if you are a Partnership Licensee, you may form one or more wholly-owned corporations in accordance with this paragraph (b)(3). The sole purpose of such corporation(s) must be to provide Financing to one or more eligible, unincorporated Small Businesses. You may form such corporation(s) only if a direct Financing to such Small Businesses would cause any of your investors to incur unrelated business taxable income under section 511 of the Internal Revenue Code of 1986, as amended (26 U.S.C. 511). Your ownership of such corporation(s) will not constitute a violation of § 107.865(a) and your investment of funds in such corporation(s) will not constitute a violation of § 107.730(a).

(c) *Real Estate Businesses.* (1) You are not permitted to finance any business classified under Major Group 65 (Real Estate) or Industry No. 1531 (Operative Builders) of the SIC Manual, with the following exceptions:

* * * * *

13. In § 107.730, paragraph (d)(3)(iv) is revised to read as follows:

§ 107.730 Financings which constitute conflicts of interest.

* * * * *

(d) *Financings with Associates.* * * *

(3) *Exceptions to paragraphs (d)(1) and (d)(2) of this section.* * * *

(iv) Both you and your Associate are non-leveraged Licensees, or you are a non-leveraged Licensee and your Associate is not a Licensee.

* * * * *

14. In § 107.740, paragraph (a) is revised to read as follows:

§ 107.740 Portfolio diversification (''overline'' limitation).

(a) *General rule.* This § 107.740 applies if you have outstanding Leverage or want to be eligible for Leverage. Without SBA's prior written approval, you may provide Financing or a Commitment to a Small Business only if the resulting amount of your aggregate outstanding Financings and Commitments to such Small Business and its Affiliates does not exceed:

(1) 20 percent of your Regulatory Capital as of the date of the Financing or Commitment if you are a Section 301(c) Licensee; or

(2) 30 percent of your Regulatory Capital as of the date of the Financing or Commitment if you are a Section 301(d) Licensee.

* * * * *

15. Section 107.855 is amended by revising paragraphs (c)(1), (c)(4)(i) and (d)(4), redesignating paragraphs (g)(1) through (g)(10) as paragraphs (g)(2) through (g)(11), and adding a new paragraph (g)(1) to read as follows:

§ 107.855 Interest rate ceiling and limitations on fees charged to Small Businesses (''Cost of Money'').

* * * * *

(c) *How to determine the Cost of Money ceiling for a Financing.* * * *

(1) Choose a base rate for your Cost of Money computation. The base rate may be either the Debenture Rate currently in effect plus the applicable Charge determined under § 107.1130(d)(1), or your own ''Cost of Capital'' as determined under paragraph (d) of this section.

* * * * *

(4) * * *

(i) The current Debenture Rate plus the applicable Charge determined under § 107.1130(d)(1);

* * * * *

(d) *How to determine your Cost of Capital.* * * *

(4) For all qualified borrowings outstanding at your last fiscal year or fiscal quarter end, determine the aggregate interest expense for the past four fiscal quarters, excluding amortization of loan fees. For the purposes of this paragraph (d)(4):

(i) Interest expense on Debentures includes the 1 percent Charge paid by a Licensee under § 107.1130(d)(1); and

(ii) Section 301(d) Licensees with outstanding subsidized Debentures are presumed to have paid interest at the rate stated on the face of such Debentures, without regard to any subsidy paid by SBA.

* * * * *

(g) *Charges excluded from the Cost of Money.* * * *

(1) Discount on the loan portion of a Debt Security, if such discount exists solely as the result of the allocation of value to detachable stock purchase warrants in accordance with generally accepted accounting principles.

* * * * *

16. In § 107.865, the first sentence of paragraph (c)(2) and paragraph (d)(1) are revised to read as follows:

§ 107.865 Restrictions on Control of a Small Business by a Licensee.

* * * * *

(c) *Rebuttals to presumption of Control.* * * *

(2) The management of the Small Business can elect at least 40 percent of the board members of a corporation, general partners of a limited partnership, or managers of a limited liability company, as appropriate, and the Investor Group can elect no more than 40 percent. * * *

* * * * *

(d) *Temporary Control permitted.* * * *

(1) Where reasonably necessary for the protection of your existing investment;

* * * * *

17. Section 107.1100 is revised to read as follows:

§ 107.1100 Types of Leverage and application forms.

(a) *Types of Leverageable available.* You may apply for Leverage from SBA in one or both of the following forms:

(1) The purchase or guarantee of your Debentures.

(2) The purchase or guarantee of your Participating Securities.

(b) *Application forms.* Use SBA Form 1022 to apply for Debentures and SBA Form 1022B to apply for Participating Securities.

(c) *Where to send your application.* Send all Leverage applications to SBA, Investment Division, 409 Third Street, S.W., Washington, DC 20416.

§ 107.1110 [Removed]

18. Section 107.1110 is removed.

19. Section 107.1120 is amended by revising paragraph (c), redesignating paragraphs (d) through (f) as paragraphs (e) through (g), and adding a new paragraph (d) to read as follows:

§ 107.1120 General eligibility requirements for Leverage.

* * * * *

(c) Meet the minimum capital requirements of § 107.210, subject to the following additional conditions:

(1) If you were licensed after September 30, 1996 under the exception in § 107.210(a)(1), you will not be eligible for Leverage until you have Regulatory Capital of at least $5,000,000.

(2) If you were licensed on or before September 30, 1996, and have Regulatory Capital of less than $5,000,000 (less than $10,000,000 if you wish to issue Participating Securities):

(i) You must certify in writing that at least 50 percent of the aggregate dollar amount of your Financings extended after September 30, 1996 will be provided to Smaller Enterprises (as defined in § 107.710(a)); and

(ii) You must demonstrate to SBA's satisfaction that the approval of Leverage will not create or contribute to an unreasonable risk of default or loss to the United States government, based on such measurements of profitability and financial viability as SBA deems appropriate.

(d) Certify in writing that you are in compliance with the requirement to finance Smaller Enterprises in § 107.710(b).

* * * * *

20. Section 107.1130 is amended by revising the section heading and paragraphs (a) through (c), redesignating paragraph (d) as paragraph (e), and adding a new paragraph (d) to read as follows:

§ 107.1130 Leverage fees and additional charges payable by Licensee.

(a) *Leverage fee.* You must pay a leverage fee to SBA for each issuance of a Debenture or Participating Security. The fee is 3 percent of the face amount of the Leverage issued.

(b) *Payment of leverage fee.* (1) If you issue a Debenture or Participating Security to repay or redeem existing Leverage, you must pay the leverage fee before SBA will guarantee or purchase the new Leverage security.

(2) If you issue a Debenture or Participating Security that is not used to repay or redeem existing Leverage, SBA will deduct the leverage fee from the proceeds remitted to you, unless you prepaid the fee under § 107.1210.

(c) *Refundability.* The leverage fee is not refundable under any circumstances.

(d) *Additional charge for Leverage.*—(1) *Debentures.* You must pay to SBA a Charge of 1 percent per annum on the outstanding amount of your Debentures issued on or after October 1, 1996, payable under the same terms and conditions as the interest on the Debentures. This Charge does not apply to Debentures issued pursuant to a Leverage commitment obtained from SBA on or before September 30, 1996.

(2) *Participating Securities.* You must pay to SBA a Charge of 1 percent per annum on the outstanding amount of your Participating Securities issued on or after October 1, 1996, payable under the same terms and conditions as the Prioritized Payments on the Participating Securities. This Charge does not apply to Participating Securities issued pursuant to a Leverage commitment obtained from SBA on or before September 30, 1996.

* * * * *

21. Section 107.1160 is amended by adding introductory text to read as follows:

§ 107.1160 Maximum amount of Leverage for a Section 301(d) Licensee.

This section applies to Leverage issued by a Section 301(d) Licensee on or before September 30, 1996. Effective October 1, 1996, a Section 301(d) Licensee may apply to issue new Leverage, or refinance existing Leverage, only on the same terms permitted under § 107.1150.

* * * * *

22. Section 107.1200 is amended by revising paragraphs (c) and (d) to read as follows:

§ 107.1200 SBA's Leverage commitment to a Licensee—application procedure, amount, and term.

* * * * *

(c) *Limitations on the amount of a Leverage commitment.* The amount of a Leverage commitment must be a multiple of $5,000.

(d) *Term of Leverage commitment.* SBA's Leverage commitment will automatically lapse on the expiration date stated in the commitment letter issued to you by SBA.

23. Section 107.1210 is revised to read as follows:

§ 107.1210 Payment of leverage fee upon receipt of commitment.

(a) *Partial prepayment of leverage fee.* As a condition of SBA's Leverage commitment, and before you draw any Leverage under such commitment, you must pay to SBA a non-refundable fee equal to 1 percent of the face amount of the Debentures or Participating Securities reserved under the commitment. This amount represents a partial prepayment of the 3 percent leverage fee established under § 107.1130(a).

(b) *Automatic cancellation of commitment.* Unless you pay the fee required under paragraph (a) of this section by 5:00 P.M. Eastern Time on the 30th calendar day following the issuance of SBA's Leverage commitment, the commitment will be automatically canceled.

24. In § 107.1230, paragraphs (a) and (b) are revised to read as follows:

§ 107.1230 Draw-downs by Licensee under SBA's Leverage commitment.

(a) *Licensee's authorization of SBA to purchase or guarantee securities.* By submitting a request for a draw against SBA's Leverage commitment, you authorize SBA, or any agent or trustee SBA designates, to guarantee your Debenture or Participating Security and to sell it with SBA's guarantee.

(b) *Limitations on amount of draw.* The amount of a draw must be a multiple of $5,000. SBA, in its discretion, may determine a minimum dollar amount for draws against SBA's Leverage commitments. Any such minimum amounts will be published in Notices in the **Federal Register** from time to time.

* * * * *

25. Section 107.1240 is amended by revising paragraphs (a)(1), (b), (c) and (d) to read as follows:

§ 107.1240 Funding of Licensee's draw request through sale to short-term investor.

(a) *Licensee's authorization of SBA to arrange sale of securities to short-term investor.* * * *

(1) The sale of your Debenture or Participating Security to a short-term investor at a rate that may be different from the Trust Certificate Rate which will be established at the time of the pooling of your security;

* * * * *

(b) *Sale of Debentures to a short-term investor.* If SBA sells your Debenture to a short-term investor:

(1) The sale price will be the face amount.

(2) At the next scheduled date for the sale of Debenture Trust Certificates, whether or not the sale actually occurs, you must pay interest to the short-term investor for the short-term period. If the actual sale of Trust Certificates takes place after the scheduled date, you must pay the short-term investor interest from the scheduled sale date to the actual sale date. This additional interest is due on the actual sale date.

(3) Failure to pay the interest constitutes noncompliance with the terms of your Leverage (see § 107.1810).

(c) *Sale of Participating Securities to a short-term investor.* If SBA sells your Participating Security to a short-term investor, the sale price will be the face amount.

(d) *Licensee's right to repurchase its Debentures before pooling.* You may repurchase your Debentures from the short-term investor before they are pooled. To do so, you must:

(1) Give SBA written notice at least 10 days before the cut-off date for the pool in which your Debenture is to be included; and

(2) Pay the face amount of the Debenture, plus interest, to the short-term investor.

§ 107.1350 [Redesignated as § 107.1585]

26. Subpart I of Part 107 is amended by removing the undesignated center heading ''Exchange of Outstanding Debentures for Participating or Preferred Securities—Section 301(d) Licensees'' preceding § 107.1350, by redesignating § 107.1350 as § 107.1585 and revising it to read as follows:

§ 107.1585 Exchange of Debentures for Participating Securities.

You may, in SBA's discretion, retire a Debenture through the issuance of Participating Securities. To do so, you must:

(a) Obtain SBA's approval to issue Participating Securities;

(b) Pay all unpaid accrued interest on the Debenture, plus any applicable prepayment penalties, fees, and other charges;

(c) Have outstanding Equity Capital Investments (at cost) equal to the amount of the Debenture being refinanced; and

(d) Classify all your existing Loans and Investments as Earmarked Assets.

27. In § 107.1400, the section heading and introductory text are revised to read as follows:

§ 107.1400 Dividends or partnership distributions on 4 percent Preferred Securities.

If you issued Preferred Securities to SBA on or after November 21, 1989, you must pay SBA a dividend or partnership distribution of 4 percent per year, from the date you issued Preferred Securities to the date you repay them, both inclusive. The dividend or partnership distribution is:

* * * * *

28. Section 107.1420 is revised to read as follows:

§ 107.1420 Articles requirements for 4 percent Preferred Securities.

If you have outstanding 4 percent Preferred Securities, your Articles must contain all the provisions in §§ 107.1400 and 107.1410.

§ 107.1430 [Amended]

29. Section § 107.1430 is amended by removing the last sentence.

30. In § 107.1500, paragraphs (b)(1) and (b)(4), the last sentence of paragraph (e), and paragraph (f)(2) are revised to read as follows:

§ 107.1500 General description of Participating Securities.

* * * * *

(b) *Special eligibility requirements for Participating Securities.* * * *

(1) Minimum capital (see § 107.210).

* * * * *

(4) Equity investing, as set forth in this paragraph (b)(4). If you issue Participating Securities, you must invest an amount equal to the Original Issue Price of such securities solely in Equity Capital Investments, as defined in § 107.50.

* * * * *

(e) *Mandatory redemption of Participating Securities.* * * * *You must pay the Redemption Price plus any unpaid Earned Prioritized Payments and any earned Adjustments and earned Charges (see § 107.1520).*

(f) *Priority of Participating Securities in liquidation of Licensee.* * * *

(2) Any Earned Prioritized Payments and any earned Adjustments and earned Charges (see § 107.1520); and

* * * * *

31. In § 107.1505, paragraphs (a)(1) through (a)(3) are added and the last sentence of paragraph (a) introductory text and paragraph (b) are revised to read as follows:

§ 107.1505 Liquidity requirements for Licensees issuing Participating Securities.

* * * * *

(a) *Definition of Liquidity Impairment.* * * * You are responsible for calculating whether you have a condition of Liquidity Impairment:

(1) As of the close of your fiscal year;

(2) At the time you apply for Leverage, unless SBA permits otherwise; and

(3) At such time as you contemplate making any Distribution.

(b) *Computation of Liquidity Ratio.* Your Liquidity Ratio equals your Total Current Funds Available (A) divided by your Total Current Funds Required (B), as determined in the following table:

CALCULATION OF LIQUIDITY RATIO

Financial account	Amount reported on SBA form 468	Weight	Weighted amount
(1) Cash and invested idle funds		×1.00	
(2) Commitments from investors		×1.00	
(3) Current maturities		×0.50	
(4) Other current assets		×1.00	
(5) Publicly Traded and Marketable Securities		×1.00	
(6) Anticipated operating revenue for next 12 months	(1)	×1.00	
(7) Total Current Funds Available			A
(8) Current liabilities		×1.00	
(9) Commitments to Small Businesses		×0.75	
(10) Anticipated operating expense for next 12 months	(1)	×1.00	

CALCULATION OF LIQUIDITY RATIO—Continued

Financial account	Amount reported on SBA form 468	Weight	Weighted amount
(11) Anticipated interest expense for next 12 months	[1]	×1.00	
(12) Contingent liabilities (guarantees)		×0.25	
(13) Total Current Funds Required			B

[1] As determined by Licensee's management under its business plan.

32. In § 107.1510, the introductory text, the last sentence of paragraph (c) introductory text, the formula in paragraph (c), and paragraph (d)(1)(ii) are revised to read as follows:

§ 107.1510 How a Licensee computes Earmarked Profit (Loss).

Computing your Earmarked Profit (Loss) is the first step in determining your obligations to pay Prioritized Payments, Adjustments and Charges under § 107.1520 and Profit Participation under § 107.1530.

* * * * *

(c) *How to compute your Earmarked Asset Ratio.* * * * Otherwise, compute your Earmarked Asset Ratio using the following formula:

$$EAR = (EA \div LI) \times 100$$

where:

EAR = Earmarked Asset Ratio.

EA = Average Earmarked Assets (at cost) for the fiscal year or interim period.

LI = Average Loans and Investments (at cost) for the fiscal year or interim period.

(d) *How to compute your Earmarked Profit (Loss) if Earmarked Asset Ratio is 100 percent.*

(1) * * *

(ii) For the purpose of determining Net Income (Loss), leverage fees paid to SBA and partnership syndication costs that you incur must be capitalized and amortized on a straight-line basis over not less than five years.

* * * * *

33. Section 107.1520 is revised to read as follows:

§ 107.1520 How a Licensee computes and allocates Prioritized Payments to SBA.

This section tells you how to compute Prioritized Payments, Adjustments and Charges on Participating Securities and determine the amounts you must pay. To distribute these amounts, see § 107.1540.

(a) *How to compute Prioritized Payments and Adjustments*—(1) *Prioritized Payments.* For a full fiscal year, the Prioritized Payment on an outstanding Participating Security equals the Redemption Price times the related Trust Certificate Rate. For an interim period, you must prorate the annual Prioritized Payment. If your Participating Security was sold to a short-term investor in accordance with § 107.1240, the Prioritized Payment for the short-term period equals the Redemption Price times the short-term rate.

(2) *Adjustments.* Compute Adjustments using paragraph (f) of this section.

(3) *Charges.* Compute Charges in accordance with § 107.1130(d)(2).

(b) *Licensee's obligation to pay Prioritized Payments, Adjustments and Charges.* You are obligated to pay Prioritized Payments, Adjustments and Charges only if you have profit as determined in paragraph (d) of this section.

(1) Prioritized Payments that you must pay (or have already paid) because you have sufficient profit are ''Earned Prioritized Payments''.

(2) Prioritized Payments that have not become payable because you lack sufficient profit are ''Accumulated Prioritized Payments''. Treat all Prioritized Payments as ''Accumulated'' until they become ''Earned'' under this section.

(3) Adjustments (computed under paragraph (f) of this section) and Charges (computed under § 107.1130(d)(2)) are ''earned'' according to the same criteria applied to Prioritized Payments.

(c) *How to keep track of Prioritized Payments.* You must establish three accounts to record your Accumulated and Earned Prioritized Payments:

(1) *Accumulation Account.* The Accumulation Account is a memorandum account. Its balance represents your Accumulated Prioritized Payments, unearned Adjustments and unearned Charges.

(2) *Distribution Account.* The Distribution Account is a liability account. Its balance represents your unpaid Earned Prioritized Payments, earned Adjustments and earned Charges.

(3) *Earned Payments Account.* The Earned Payments Account is a memorandum account. Each time you add to the Distribution Account balance, add the same amount to the Earned Payments Account. Its balance represents your total (paid and unpaid) Earned Prioritized Payments, earned Adjustments and earned Charges.

(d) *How to determine your profit for Prioritized Payment purposes.* As of the end of each fiscal year and any interim period for which you want to make a Distribution:

(1) Bring the Accumulation Account up to date by adding to it all Prioritized Payments and Charges through the end of the appropriate fiscal period.

(2) Determine whether you have profit for the purposes of this section by doing the following computation:

(i) Cumulative Earmarked Profit (Loss) under § 107.1510(f); minus

(ii) The Earned Payments Account balance; minus

(iii) All Distributions previously made under §§ 107.1550, 107.1560 and 107.1570(a); minus

(iv) Any Profit Participation previously allocated to SBA under § 107.1530, but not yet distributed.

(3) The amount computed in paragraph (d)(2) of this section, if greater than zero, is your profit. If the amount is zero or less, you have no profit.

(4) If you have a profit, continue with paragraph (e) of this section. Otherwise, continue with paragraph (f) of this section.

(e) *Allocating Prioritized Payments to the Distribution Account.* (1) If you have a profit under paragraph (d) of this section, determine the lesser of:

(i) Your profit; or

(ii) The balance in your Accumulation Account.

(2) Subtract the result in paragraph (e)(1) of this section from the Accumulation Account and add it to the Distribution Account and the Earned Payments Account.

(f) *How to compute Adjustments.* You must compute Adjustments as of the end of each fiscal year if you have a balance greater than zero in either your Accumulation Account or your Distribution Account, after giving effect to any Distribution that will be made no

later than the second Payment Date following the fiscal year end.

(1) Determine the combined average Accumulation Account and Distribution Account balances for the fiscal year, assuming that Prioritized Payments accumulate on a daily basis without compounding.

(2) Multiply the average balance computed in paragraph (f)(1) of this section by the average of the Trust Certificate Rates for all the Participating Securities poolings during the fiscal year.

(3) Add the amounts computed in this paragraph (f) to your Accumulation Account.

(g) *Licensee's obligation to pay Prioritized Payments after redeeming Participating Securities.* This paragraph (g) applies if you have redeemed all your Participating Securities, but you still hold Earmarked Assets and still have a balance in your Accumulation Account.

(1) You must continue to perform all the procedures in this section as of the end of each fiscal quarter and prior to making any Distribution. You must distribute any Earned Prioritized Payments, earned Adjustments and earned Charges in accordance with § 107.1540.

(2) After you dispose of all your Earmarked Assets and make any required Distributions in accordance with § 107.1540, your obligation to pay any remaining Accumulated Prioritized Payments, unearned Adjustments and unearned Charges will be extinguished.

34. Section 107.1530 is amended by removing paragraphs (e)(3) and (e)(4) and revising paragraphs (c), (e)(2) and (h) to read as follows:

§ 107.1530 How a Licensee computes SBA's Profit Participation.

* * * * *

(c) *How to compute the Base.* As of the end of each fiscal year and any year-to-date interim period for which you want to make a Distribution, compute your Base using the following formula:

$$B = EP - PPA - UL$$

where:

B = Base.

EP = Earmarked Profit (Loss) for the period from § 107.1510.

PPA = Prioritized Payments for the period from § 107.1520(a)(1), Adjustments (if applicable) from § 107.1520(f), and Charges (if applicable) from § 107.1130(d)(2).

UL = ''Unused Loss'' from prior periods as determined in this paragraph (c).

(1) If the Base computed as of the end of your previous fiscal year (your ''Previous Base'') was less than zero, your Unused Loss equals your Previous Base.

(2) If your Previous Base was zero or greater, your Unused Loss equals zero, with the following exception: If you made an interim Distribution of Profit Participation during your previous fiscal year, and your Previous Base was lower than the interim Base on which your Distribution was computed, then your Unused Loss equals the difference between the interim Base and the Previous Base. For example, assume you are computing your Base as of December 31, 1997, your fiscal year end. Your Previous Base, computed as of December 31, 1996, was $3,000,000. During 1996, you made an interim Distribution which was computed on a Base of $3,500,000 as of June 30, 1996. The $500,000 difference between the 1996 interim and year-end Bases would be carried forward as Unused Loss in the computation of your Base as of December 31, 1997.

(3) If you had no Participating Securities outstanding as of the end of your last fiscal year, you may request SBA's approval to treat your Undistributed Net Realized Loss, as reported on SBA Form 468 for that year, as Unused Loss. If you did not file SBA Form 468 because you were not yet licensed as of the end of your last fiscal year, you may request SBA's approval to treat pre-licensing losses as Unused Loss.

* * * * *

(e) *Compute the ''PLC ratio''.* * * *

(2) *Exception.* You may reduce the ratio computed under paragraph (e)(1) of this section if you have increased your Leverageable Capital above its highest previous level. The increase must have taken place at least 120 days before the date as of which your Base is computed. In addition, the increase must have been expressly provided for in a plan of operations submitted to and approved by SBA in writing, or must be the result of the takedown of commitments or the conversion of non-cash assets that were included in your Private Capital. If these conditions are satisfied, compute your reduced PLC ratio as follows:

(i) Divide the highest dollar amount of Participating Securities you have ever had outstanding by your increased Leverageable Capital.

(ii) If the result in paragraph (e)(2)(i) of this section is lower than your PLC ratio currently in effect, such result will become your new PLC ratio.

* * * * *

(h) *Computing SBA's Profit Participation.* If the Base from paragraph (c) of this section is greater than zero, you must compute SBA's Profit Participation as follows:

(1) Multiply the Base from paragraph (c) of this section by the Profit Participation Rate from paragraph (g) of this section.

(2) If your last Profit Participation computation was for an interim period during the same fiscal year and used a higher Profit Participation Rate than the Rate you just used in paragraph (h)(1) of this section, you must adjust the amount computed in paragraph (h)(1) of this section as follows:

(i) Determine the difference between the Profit Participation Rate you just used in paragraph (h)(1) of this section and the Rate used in your previous computation;

(ii) Multiply the difference by the Base from your last Profit Participation computation; and

(iii) Add the result to the amount you computed in paragraph (h)(1) of this section.

(3) Reduce the Profit Participation computed in paragraphs (h)(1) and (h)(2) of this section by any amounts of Profit Participation that you distributed or reserved for distribution to SBA, or its designated agent or Trustee, for any previous interim period(s) during the fiscal year. The result is SBA's Profit Participation (unless it is less than zero, in which case SBA's Profit Participation is zero).

* * * * *

35. Section 107.1540 is amended by adding a sentence at the end of the introductory text to read as follows:

§ 107.1540 Distributions by Licensee—Prioritized Payment and Adjustments.

* * * You must notify SBA of any planned distribution under this section 10 business days before the distribution date, unless SBA permits otherwise.

* * * * *

36. Section 107.1550 is amended by adding a sentence at the end of the introductory text and by revising paragraphs (a)(1), (b) and (c)(3) to read as follows:

§ 107.1550 Distributions by Licensee—permitted ''tax Distributions'' to private investors and SBA.

* * * You must notify SBA of any planned distribution under this section 10 business days before the distribution date, unless SBA permits otherwise.

(a) *Conditions for making a tax Distribution.* * * *

(1) You have paid all your Prioritized Payments, Adjustments, and Charges, so that the balance in both your Distribution Account and your

Accumulation Account is zero (see § 107.1520).

* * * * *

(b) *How to compute the Maximum Tax Liability.* (1) Compute your Maximum Tax Liability for a full fiscal year only. Use the following formula:

$$M=(TOI \times HRO) + (TCG \times HRC)$$

where:

M=Maximum Tax Liability.

TOI=Net ordinary income allocated to your partners or other owners for Federal income tax purposes for the fiscal year immediately preceding the Distribution, excluding Prioritized Payments allocated to SBA.

HRO=The highest combined marginal Federal and State income tax rate for corporations or individuals on ordinary income, determined in accordance with paragraphs (b)(2) through (b)(4) of this section.

TCG=Net capital gains allocated to your partners or other owners for Federal income tax purposes for the fiscal year immediately preceding the Distribution, excluding Prioritized Payments allocated to SBA.

HRC=The highest combined marginal Federal and State income tax rate for corporations or individuals on capital gains, determined in accordance with paragraphs (b)(2) through (b)(4) of this section.

(2) You may compute the highest combined marginal Federal and State income tax rate on ordinary income and capital gains using either individual or corporate rates. However, you must apply the same type of rate, either individual or corporate, to both ordinary income and capital gains.

(3) In determining the combined Federal and State income tax rate, you must assume that State income taxes are deductible from Federal income taxes. For example, if the Federal tax rate was 35 percent and the State tax rate was 5 percent, the combined tax rate would be $[35\% \times (1-.05)] + 5\% = 38.25\%$.

(4) For purposes of this paragraph (b), the ''State income tax'' is that of the State where your principal place of business is located, and does not include any local income taxes.

(c) *SBA's share of the tax Distribution.*

* * * * *

(3) SBA will apply its share of the tax Distribution in the order set forth in § 107.1560(g).

* * * * *

37. In § 107.1560, in the first column of the table in paragraph (e), the column heading is revised to read ''If your ratio of Leverage to Leverageable Capital as of the fiscal period end is:'', a sentence is added at the end of the introductory text, and paragraphs (a)(1), (a)(4) and (b) are revised to read as follows:

§ 107.1560 Distributions by Licensee—required Distributions to private investors and SBA.

* * * You must notify SBA of any planned distribution under this section 10 business days before the distribution date, unless SBA permits otherwise.

(a) *Conditions for making Distributions.*

* * * * *

(1) You must have paid all Prioritized Payments, Adjustments and Charges, so that the balance in both your Distribution Account and your Accumulation Account is zero (see §§ 107.1520 and 107.1540).

* * * * *

(4) The amount you distribute under this section must not exceed your remaining Retained Earnings Available for Distribution.

(b) *Total amount you must distribute.* Unless SBA permits otherwise, the total amount you must distribute equals the result (if greater than zero) of the following computation:

(1) Your Retained Earnings Available for Distribution as of the end of your fiscal year, after giving effect to any Distribution under §§ 107.1540 and 107.1550; minus

(2) All previous Distributions under this section and § 107.1570(a) that were applied as redemptions or repayments of Leverage; plus

(3) All previous Distributions under § 107.1570(b) that reduced your Retained Earnings Available for Distribution.

* * * * *

38. Section 107.1570 is amended by adding a sentence at the end of the introductory text and by revising the heading of paragraph (b)(1) and paragraphs (b)(1)(i) and (b)(1)(ii) to read as follows:

§ 107.1570 Distributions by Licensee—optional Distributions to private investors and SBA.

* * * You must notify SBA of any planned distribution under this section 10 business days before the distribution date, unless SBA permits otherwise.

* * * * *

(b) *Other optional Distributions.*

* * *

(1) *Conditions for making a Distribution.* * * *

(i) You have distributed all Earned Prioritized Payments, earned Adjustments, and earned Charges, so that the balance in your Distribution Account is zero (see § 107.1520).

(ii) You have distributed all Profit Participation computed under § 107.1530 which you are required to distribute under § 107.1560 or permitted to distribute under paragraph (a) of this section, as appropriate, and you have made all required Distributions under § 107.1560.

* * * * *

39. Section 107.1575 is added to subpart I to read as follows:

§ 107.1575 Distributions on other than Payment Dates.

(a) *Permitted Distributions on other than Payment Dates.* Notwithstanding any provisions to the contrary in §§ 107.1540 through 107.1570, you may make Distributions on dates other than Payment Dates as follows:

(1) Required annual Distributions under §§ 107.1540(a)(1), and any Distributions under §§ 107.1550 and 107.1560, must be made no later than the second Payment Date following the end of your fiscal year;

(2) Required Distributions under § 107.1540(b) must be made no later than the first Payment Date following the end of the applicable fiscal quarter;

(3) Optional Distributions under § 107.1540(a)(2) and § 107.1570 may be made on any date.

(b) *Conditions for making Distribution.* All Distributions under this section are subject to the following conditions:

(1) You must obtain SBA's written approval before the distribution date;

(2) You must use the distribution date as the ending date of the period for which you compute your Earmarked Profits, Prioritized Payments, Adjustments, Charges, Profit Participation, Retained Earnings Available for Distribution, liquidity ratio, Capital Impairment, and any other applicable computations required under §§ 107.1500 through 107.1570;

(3) If your Distribution includes an amount which SBA will apply as a redemption of Participating Securities, the effective date of such redemption, for all purposes including future computations of Prioritized Payments, will be the next Payment Date following the distribution date.

40. In § 107.1580, the heading and introductory text of paragraph (a) are revised to read as follows:

§ 107.1580 Special rules for In-Kind Distributions by Licensees.

(a) *In-Kind Distributions.* A Distribution under §§ 107.1540, 107.1560 or 107.1570 may consist of securities (an ''In-Kind Distribution'').

Such a Distribution must satisfy the conditions in this paragraph (a).

* * * * *

41. Section 107.1590 is amended by removing paragraph (c), redesignating paragraph (d) as paragraph (c), and revising paragraph (a)(1) to read as follows:

§ 107.1590 Special rules for companies licensed on or before March 31, 1993.

* * * * *

(a) *Election to exclude pre-existing portfolio.* * * *

(1) The proceeds of your first issuance of Participating Securities are not used to refinance outstanding Debentures (see § 107.1585(a)). SBA will consider payment or prepayment of any outstanding Debenture to be a refinancing unless you demonstrate to SBA's satisfaction that you can pay the Debenture principal without relying on the proceeds of the Participating Securities.

* * * * *

42. In § 107.1600, the first sentence of paragraph (a) and paragraph (b) are revised to read as follows:

§ 107.1600 SBA authority to issue and guarantee Trust Certificates.

(a) *Authorization.* Sections 319(a) and (b) of the Act authorize SBA or its CRA to issue TCs, and SBA to guarantee the timely payment of the principal and interest thereon. * * *

(b) *Periodic exercise of authority.* SBA will issue guarantees of Debentures and Participating Securities under section 303 and of TCs under section 319 of the Act at six month intervals, or at shorter intervals, taking into account the amount and number of such guarantees or TCs.

* * * * *

43. Section 107.1720 is added to subpart I to read as follows:

§ 107.1720 Characteristics of SBA's guarantee.

If SBA agrees to guarantee a Licensee's Debentures or Participating Securities, such guarantee will be unconditional, irrespective of the validity, regularity or enforceability of the Debentures or Participating Securities or any other circumstances which might constitute a legal or equitable discharge or defense of a guarantor. Pursuant to its guarantee, SBA will make timely payments of principal and interest on the Debentures or the Redemption Price of and Prioritized Payments on the Participating Securities.

44. In § 107.1820, paragraph (e)(9) is revised to read as follows:

§ 107.1820 Conditions affecting issuers of Preferred Securities and/or Participating Securities.

* * * * *

(e) *Restricted Operations Conditions.* * * *

(9) *Failure to meet investment requirements.* You fail to make the amount of Equity Capital Investments required for Participating Securities (§ 107.1500(b)(4)), if applicable to you; or you fail to maintain as of the end of each fiscal year the investment ratios or amounts required for Leverage in excess of 300 percent of Leverageable Capital (§ 107.1160(c)) or Preferred Securities in excess of 100 percent of Leverageable Capital (§ 107.1160(d)), if applicable to you. In determining whether you have met the maintenance requirements in § 107.1160(c) or (d), SBA will disregard any prepayment, sale, or disposition of Venture Capital Financings, any increase in Leverageable Capital, and any receipt of additional Leverage, within 120 days prior to the end of your fiscal year.

* * * * *

45. In § 107.1830, paragraph (a) is revised to read as follows:

§ 107.1830 Licensee's Capital Impairment—definition and general requirements.

(a) *Applicability of this section.* This section applies to Leverage issued on or after April 25, 1994. For Leverage issued before April 25, 1994, you must comply with paragraphs (e) and (f) of this section and the Capital Impairment regulations in this part in effect when you issued your Leverage. For all Leverage issued, you must also comply with any contractual provisions to which you have agreed.

* * * * *

Dated: January 28, 1998.

Aida Alvarez,

Administrator.

[FR Doc. 98–2556 Filed 2–4–98; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–261–AD; Amendment 39–10300; AD 98–03–08]

RIN 2120–AA64

Airworthiness Directives; Fokker Model F27 Mark 050 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Fokker Model F27 Mark 050 series airplanes. This action requires modification of the window frames surrounding the windshield windows and installation of reinforcement plates on all window frames of the flight compartment. For certain airplanes, this action requires modification of the window frames surrounding the sliding windows and direct vision windows of the flight compartment. This amendment is prompted by the issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified in this AD are intended to prevent structural degradation of the window frames of the flight compartment, which could result in depressurization of the airplane during flight.

DATES: Effective February 20, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 20, 1998.

Comments for inclusion in the Rules Docket must be received on or before 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–261–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from Fokker Services B.V., Technical Support Department, P.O. Box 75047, 1117 ZN Schiphol Airport, the Netherlands. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: 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: The Rijksluchtvaartdienst (RLD), which is the airworthiness authority for the Netherlands, notified the FAA that an unsafe condition may exist on certain Fokker Model F27 Mark 050 series airplanes. The RLD advises that it has received a report indicating that, during

fatigue testing performed on a Model F27 Mark 050 test article, cracking was detected on the outside edges of the window frames of the flight compartment. Such fatigue cracking, if not detected and corrected in a timely manner, could result in structural degradation of the window frames of the flight compartment and depressurization of the airplane during flight.

Explanation of Relevant Service Information

Fokker has issued Service Bulletin SBF50–53–015, dated August 16, 1989, which describes procedures for modification of the outside edges of the window frames surrounding the sliding windows and the direct vision windows of the flight compartment.

Fokker also has issued Service Bulletins SBF50–53–016, dated December 20, 1989; and SBF50–53–048, dated October 17, 1994. These two service bulletins describe procedures for modification of the outside edges of the window frames surrounding the windshield windows, and installation of reinforcement plates on all window frames of the flight compartment.

Accomplishment of the actions specified in the service bulletins is intended to adequately address the identified unsafe condition.

The RLD classified the three referenced service bulletins as mandatory and issued Dutch airworthiness directives 89–98, dated August 25, 1989; and 1990–002/2(A), dated February 28, 1995; in order to assure the continued airworthiness of these airplanes in the Netherlands.

FAA's Conclusions

This airplane model is manufactured in the Netherlands and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.19) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the RLD has kept the FAA informed of the situation described above. The FAA has examined the findings of the RLD, 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 the 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, this AD is being issued to require accomplishment of the actions specified in the service bulletins described previously.

Cost Impact

None of the airplanes affected by this action are on the U.S. Register. All airplanes included in the applicability of this rule currently are operated by non-U.S. operators under foreign registry; therefore, they are not directly affected by this AD action. However, the FAA considers that this rule is necessary to ensure that the unsafe condition is addressed in the event that any of these subject airplanes are imported and placed on the U.S. Register in the future. In that event, the following cost estimates are provided.

It would require approximately 3 work hours to accomplish the actions of Fokker Service Bulletin SBF50–53–015, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this AD for accomplishment of this service bulletin would be $180 per airplane.

It would require approximately 61 work hours to accomplish the actions of Fokker Service Bulletin SBF50–53–016, at an average labor rate of $60 per work hour. Required parts would cost approximately $3,600. Based on these figures, the cost impact of this AD for accomplishment of this service bulletin would be $7,260 per airplane.

It would require approximately 170 work hours to accomplish the required actions of Fokker Service Bulletin SBF50–53–048, at an average labor rate of $60 per work hour. Required parts would cost approximately $3,000. Based on these figures, the cost impact of this AD for accomplishment of this service bulletin would be $13,200 per airplane.

Determination of Rule's Effective Date

Since this AD action does not affect any airplane that is currently on the U.S. Register, it has no adverse economic impact and imposes no additional burden on any person. Therefore, prior notice and public procedures hereon are unnecessary and the amendment may be made effective in less than 30 days after publication in the **Federal Register**.

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 97–NM–261–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

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

98–03–08 Fokker: Amendment 39–10300. Docket 97–NM–261–AD.

Applicability: Model F27 Mark 050 series airplanes; serial numbers 20103 through 20108 inclusive, 20110 through 20149 inclusive, 20151 through 20155 inclusive, 20159, and 20160; 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 structural degradation of the window frames of the flight compartment, which could result in depressurization of the airplane during flight, accomplish the following:

(a) For airplanes having serial numbers 20103 through 20108 inclusive, and 20110 through 20122 inclusive: Prior to the accumulation of 10,000 total flight cycles, or within 90 days after the effective date of this AD, whichever occurs later, modify the outside edges of the window frames surrounding the sliding windows and direct vision windows of the flight compartment, in accordance with Fokker Service Bulletin SBF50–53–015, dated August 16, 1989.

(b) Prior to the accumulation of 15,000 total flight cycles, or within 90 days after the effective date of this AD, whichever occurs later, modify the outside edges of the window frames surrounding the windshield windows and install reinforcement plates on all window frames of the flight compartment; in accordance with Fokker Service Bulletin SBF50–53–016, dated December 20, 1989, or Fokker Service Bulletin SBF50–53–048, dated October 17, 1994.

(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.

(e) The actions shall be done in accordance with Fokker Service Bulletin SBF50–53–015, dated August 16, 1989; Fokker Service Bulletin SBF50–53–016, dated December 20, 1989; or Fokker Service Bulletin SBF50–53–048, dated October 17, 1994; as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Fokker Services B.V., Technical Support Department, P.O. Box 75047, 1117 ZN Schiphol Airport, the Netherlands. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in Dutch airworthiness directives 89–98, dated August 25, 1989; and 1990–002/2 (A), dated February 28, 1995.

(f) This amendment becomes effective on February 20, 1998.

Issued in Renton, Washington, on January 27, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–2523 Filed 2–4–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–154–AD; Amendment 39–10304; AD 98–03–12]

RIN 2120–AA64

Airworthiness Directives; Dornier Model 328–100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Dornier Model 328–100 series airplanes, that requires a one-time inspection of the date stamp affixed to the wing deicing boots to determine the cure date, and replacement of the deicing boot with a new boot, if necessary. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to prevent delamination of the wing deicing boots, and resultant inflation of the deicing boots to a distorted aerodynamic shape during flight, which could result in reduced controllability of the airplane.

DATES: Effective March 12, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 12, 1998.

ADDRESSES: The service information referenced in this AD may be obtained from FAIRCHILD DORNIER, DORNIER Luftfahrt GmbH, P.O. Box 1103, D–82230 Wessling, Germany. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: 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: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all Dornier Model 328–100 series airplanes was published in the **Federal Register** on November 28, 1997 (62 FR 63286). That action

proposed to require a one-time inspection of the date stamp affixed to the wing deicing boots to determine the cure date, and replacement of the deicing boot with a new boot, if necessary.

Comments

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

The commenter supports the proposed rule.

Conclusion

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

Cost Impact

The FAA estimates that 50 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $3,000, or $60 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

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

98–03–12 Dornier: Amendment 39–10304. Docket 97–NM–154–AD.

Applicability: All Model 328–100 series airplanes, 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 delamination of the wing deicing boots and resultant inflation of the deicing boots to a distorted aerodynamic shape during flight, which could result in reduced controllability of the airplane, accomplish the following:

(a) Within 120 days after the effective date of this AD, perform a one-time visual inspection of the date stamp affixed to each wing deicing boot to determine the cure date, in accordance with Dornier Service Bulletin SB–328–30–171, dated September 20, 1996, including Annexes 1 and 2 (undated). If the cure date of any deicing boot is January 31, 1994, or earlier, or if the cure date of the deicing boot cannot be determined, prior to further flight, replace the deicing boot with a new deicing boot having a cure date later than January 31, 1994, in accordance with the service bulletin.

(b) As of the effective date of this AD, no person shall install on any airplane a wing deicing boot having a cure date of January 31, 1994, or earlier.

(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.

(e) The actions shall be done in accordance with Dornier Service Bulletin SB–328–30–171, dated September 20, 1996, including Annexes 1 and 2 (undated). This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from FAIRCHILD DORNIER, DORNIER Luftfahrt GmbH, P.O. Box 1103, D–82230 Wessling, Germany. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in German airworthiness directive 96–320, dated November 7, 1996.

(f) This amendment becomes effective on March 12, 1998.

Issued in Renton, Washington on January 28, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–2639 Filed 2–4–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–118–AD; Amendment 39–10305; AD 98–03–13]

RIN 2120–AA64

Airworthiness Directives; Short Brothers Model SD3–60 SHERPA and SD3 SHERPA Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Short Brothers Model

SD3–60 SHERPA and SD3 SHERPA series airplanes, that requires removing the aluminum alloy oxygen pipe assembly and replacing it with a stainless steel assembly. This amendment is prompted by the issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to prevent aluminum oxygen tubing from bursting and releasing a high-pressure oxygen flow into the passenger cabin, which could result in a fire hazard during flight.

DATES: Effective March 12, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 12, 1998.

ADDRESSES: The service information referenced in this AD may be obtained from Short Brothers, Airworthiness & Engineering Quality, P.O. Box 241, Airport Road, Belfast BT3 9DZ, Northern Ireland. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all Short Brothers Model SD3–60 SHERPA and SD3 SHERPA series airplanes was published in the **Federal Register** on November 19, 1997 (62 FR 61703). That action proposed to require removing the aluminum alloy oxygen pipe assembly and replacing it with a stainless steel assembly.

Comments

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

The commenter supports the proposed rule.

Conclusion

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

Cost Impact

The FAA estimates that 9 Model SD3–60 SHERPA and SD3 SHERPA series airplanes of U.S. registry will be affected by this AD, that it will take approximately 4 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will cost approximately $60 per airplane. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $2,700, or $300 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

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

98–03–13 Short Brothers, PLC: Amendment 39–10305. Docket 97–NM–118–AD.

Applicability: All Model SD3–60 SHERPA and SD3 SHERPA series airplanes, 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 aluminum oxygen tubing from bursting and releasing a high-pressure oxygen flow into the passenger cabin, which could result in a fire hazard during flight; accomplish the following:

(a) Within 90 days after the effective date of this AD, remove the aluminum oxygen tubing pipe assembly and replace it with a stainless steel tubing pipe assembly in accordance with the Accomplishment Instructions of Short Brothers Service Bulletin SD3–60 SHERPA–35–1 or SD3 SHERPA–35–2, both dated April 8, 1997, as applicable.

(b) As of the effective date of this AD, no person shall install an aluminum alloy oxygen tubing pipe assembly, part number SD3–71–20052–401, 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.

(e) The actions shall be done in accordance with Short Brothers Service Bulletin SD3–60 SHERPA–35–1 or SD3 SHERPA–35–2, both dated April 8, 1997, as applicable This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Short Brothers, Airworthiness & Engineering Quality, P.O. Box 241, Airport Road, Belfast BT3 9DZ, Northern Ireland. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in British airworthiness directives 002–04–97 and 003–04–97.

(f) This amendment becomes effective on March 12, 1998.

Issued in Renton, Washington, on January 28, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–2640 Filed 2–4–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–188–AD; Amendment 39–10303; AD 98–03–11]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300, A310, and A300–600 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Airbus Model A300, A310, and A300–600 series airplanes. For certain airplanes, this amendment requires replacing the bearings of the throttle control levers with new sealed bearings. For certain other airplanes, this amendment requires replacing the throttle control assemblies with new assemblies. This amendment is prompted by the issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to prevent asymmetric engine thrust on the airplane when the autothrottle is engaged, which could result in roll and yaw disturbances, and consequent reduced controllability of the airplane.

DATES: Effective March 12, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 12, 1998.

ADDRESSES: The service information referenced in this AD may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: 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: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all Airbus Model A300, A310, and A300–600 series airplanes was published in the **Federal Register** on November 28, 1997 (62 FR 63296). For certain airplanes, that action proposed to require replacing the bearings of the throttle control levers with new sealed bearings. For certain other airplanes, the action proposed to require replacing the throttle control assemblies with new assemblies.

Comments

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

Both commenters support the proposed rule.

Conclusion

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

Cost Impact

The FAA estimates that 66 Model A300, A310, and A300–600 series airplanes of U.S. registry will be affected by this AD.

The FAA estimates that the replacement of the bearings is required to be accomplished on 57 airplanes. It will take approximately 24 work hours per airplane to accomplish that action, at an average labor rate of $60 per work hour. Required parts will be provided by the manufacturer at no cost to the operators. Based on these figures, the cost impact of the replacement of the bearings required by this AD on U.S. operators is estimated to be $82,080, or $1,440 per airplane.

The FAA estimates that the replacement of the throttle support assemblies is required to be accomplished on 9 airplanes. It will take approximately 28 work hours per airplane to accomplish the action, at an average labor rate of $60 per work hour. Required parts will cost approximately $1,138 per airplane. Based on these figures, the cost impact of the replacement of the throttle support assemblies required by this AD on U.S. operators is estimated to be $25,362, or $2,818 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation

Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

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

98–03–11 Airbus Industrie: Amendment 39–10303. Docket 97–NM–188–AD.

Applicability: All Model A300, A310, and A300–600 series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent asymmetric engine thrust on the airplane when the autothrottle is engaged, which could result in roll and yaw disturbances, and consequent reduced controllability of the airplane, accomplish the following:

(a) Within 18 months or 3,500 flight hours after the effective date of this AD, whichever occurs first, accomplish paragraph (a)(1) or (a)(2) of this AD, as applicable.

(1) For Model A300, A300–600, and A310 series airplanes: Replace the four bearings located on both throttle control levers with new sealed bearings, in accordance with Airbus Service Bulletin A300–76–0018, dated October 12, 1995, as revised by Airbus Service Bulletin Change Notice O.A., dated February 18, 1997 (for Model A300 series airplanes); Airbus Service Bulletin A300–76–6010, dated October 12, 1995, as revised by Airbus Service Bulletin Change Notice O.A., dated February 18, 1997 (for Model A300–600 series airplanes); or Airbus Service Bulletin A310–76–2013, dated October 12, 1995, as revised by Airbus Service Bulletin Change Notice O.A., dated February 18, 1997; as applicable.

(2) For Model A310 and A300–600 series airplanes equipped with full authority digital engine control (FADEC): Replace the two throttle support assemblies equipped with rollers with new throttle support assemblies equipped with bearings, in accordance with Airbus Service Bulletin A310–76–2014, Revision 02, dated January 6, 1997 (for Model A310 series airplanes); or Airbus Service Bulletin A300–76–6011, Revision 02, dated January 6, 1997 (for Model A300–600 series airplanes); as applicable.

Note 2: Replacements accomplished prior to the effective date of this AD in accordance with Airbus Service Bulletin A310–76–2014, Revision 1, dated March 25, 1996; or Airbus Service Bulletin A300–76–6011, Revision 1, dated March 25, 1996; are considered acceptable for compliance with the applicable action specified in paragraph (a)(2) of this AD.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

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

(d) The replacements shall be done in accordance with Airbus Service Bulletin A300–76–0018, dated October 12, 1995, as revised by Airbus Service Bulletin Change Notice O.A., dated February 18, 1997; Airbus Service Bulletin A300–76–6010, dated October 12, 1995, as revised by Airbus Service Bulletin Change Notice O.A., dated February 18, 1997; Airbus Service Bulletin A310–76–2013, dated October 12, 1995, as revised by Airbus Service Bulletin Change Notice O.A., dated February 18, 1997; Airbus Service Bulletin A310–76–2014, Revision 02, dated January 6, 1997; or Airbus Service Bulletin A300–76–6011, Revision 02, dated January 6, 1997; as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 4: The subject of this AD is addressed in French airworthiness directive 96–270–209(B), dated November 20, 1996.

(e) This amendment becomes effective on March 12, 1998.

Issued in Renton, Washington, on January 28, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–2641 Filed 2–4–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–CE–06–AD; Amendment 39–10306; AD 98–02–05]

RIN 2120–AA64

Airworthiness Directives; Cessna Aircraft Company Model 172R Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This document publishes in the **Federal Register** an amendment adopting Airworthiness Directive (AD) 98–02–05, which was sent previously to all known U.S. owners and operators of Cessna Aircraft Company (Cessna) Model 172R airplanes. This AD requires de-activating the cabin heating system until the engine exhaust muffler can be replaced, and fabricating and installing a placard within the pilot's clear view, using ⅛-inch letters with the following words: ''CABIN HEATER INOPERATIVE.'' Inadequate or failed weldments that are leaking exhaust gas (including carbon monoxide) from the muffler into the airplane's cabin and cockpit area prompted this action. The actions specified by this AD are intended to prevent carbon monoxide gas from entering the airplane's cabin heating system and cabin, which, if not corrected, could result in passenger and pilot injury with consequent loss of control of the airplane.

DATES: Effective February 23, 1998, to all persons except those to whom it was made immediately effective by priority letter AD 98–02–05, issued January 9, 1998, which contained the requirements of this amendment.

Comments for inclusion in the Rules Docket must be received on or before March 30, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket 98–CE–06–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Paul Pendleton, Aerospace Engineer, Wichita Aircraft Certification Office, 1801 Airport Road, Rm. 100, Mid-Continent Airport, Wichita, Kansas, 67209, telephone (316) 946–4143; facsimile (316) 946–4407.

SUPPLEMENTARY INFORMATION:

Discussion

On January 9, 1998, the FAA issued priority letter AD 98–02–05, which applies to Cessna Model 172R airplanes (serial numbers 17280001 through 17280305). That AD resulted from a quality control problem with Aeroquip engine exhaust mufflers installed on certain Cessna Model 172R airplanes. Cessna recently notified the FAA that the Aeroquip muffler, part number (P/N) 00624–NH4000011–10 71379 0554011–2, is installed in approximately 250 Cessna Model 172R airplanes. Cessna has determined, through pressure testing, that approximately 5 out of the 25 tested mufflers manufactured by Aeroquip are leaking. These inadequate or failed weldments will permit exhaust gas (including carbon monoxide) leakage from the muffler, and consequently into the airplane's cabin and cockpit area. This condition, if not corrected, could result in passenger and pilot injury with consequent loss of control of the airplane.

The FAA's Determination and Explanation of the AD

Since an unsafe condition has been identified that is likely to exist or develop in other Cessna Model 172R airplanes of the same type design, the FAA issued priority letter AD 98–02–05 to prevent carbon monoxide gas from entering the airplane's cabin heating system and cabin, which, if not corrected, could result in passenger and pilot injury with consequent loss of control of the airplane.

The AD requires de-activating the cabin heating system, and fabricating and installing a placard within the pilot's clear view, using ⅛-inch letters with the following words: ''CABIN HEATER INOPERATIVE'' prior to further flight.

This AD also requires replacing the Aeroquip engine exhaust muffler (P/N 00624–NH4000011–10 71379 0554011–2). If replacement parts are not available, the airplane may continue operation with the heating system de-activated for a period not to exceed 6 calendar months after the effective date of this AD.

Determination of the Effective Date of the AD

Since it was found that immediate corrective action was required, notice and opportunity for prior public comment thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by individual letters issued on January 9, 1998, to all known U.S. operators of Cessna Model 172R airplanes with serial numbers 17280001 through 17280305. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) to make it effective as to all persons.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting immediate flight safety and, thus, was not preceded by notice and opportunity to comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications 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 will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 98–CE–06–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

98–02–05 Cessna Aircraft Company: Amendment 39–10306; Docket No. 98–CE–06–AD.

Applicability: Model 172R airplanes (serial numbers 17280001 through 17280305), certificated in any category, that are equipped with an Aeroquip engine exhaust muffler (part number 00624–NH4000011–10 71379 0554011–2).

Note 1: The letters ''PT'' or ''PTT'' stamped on the right-hand external ring that supports the muffler cabin heater shroud indicate that Cessna has built or re-built the part. Parts marked in this manner are not Aeroquip parts.

Note 2: 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 (h) 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 carbon monoxide gas from entering the airplane's cabin heating system and cabin, which, if not corrected, could result in passenger and pilot injury with consequent loss of control of the airplane, accomplish the following:

(a) Prior to further flight after the effective date of this AD, de-activate the cabin heating system by ensuring that the valve mechanism is functional, and that the cabin heat valve lever is safety wired in the down ''off'' position.

(b) Prior to further flight after the effective date of this AD, fabricate and install a placard near the cabin heat control knob, within the pilot's clear view, using at least ⅛-inch letters with the following words:

''CABIN HEATER INOPERATIVE''

(c) Within the next 50 hours time-in-service (TIS) after the effective date of this AD, replace the engine exhaust muffler with a muffler having one of the following part numbers (P/N) in accordance with the appropriate Cessna maintenance manual:

00624–NH4000011–10 71379 0554011–2–PTT, or
0554011–2, or
0554011–6, or
an FAA-approved equivalent part number.

Note 3: P/N 0554011–2 will have ''PT'' stamped on the right-hand external ring that supports the muffler; and, P/N 0554011–6 may have ''PT'' stamped on the right-hand external ring.

(d) If parts are not available for the replacement required in paragraph (c) of this AD, the airplane may continue to be operated for a period not to exceed 6 calendar months from the effective date of this AD, provided the cabin heating system remains de-activated.

(e) The cabin heating system may be re-activated and the placard required in paragraph (b) of this AD may be removed, once the muffler is replaced in accordance with this AD.

(f) Upon the effective date of this AD, no person may install any Aeroquip engine exhaust muffler, P/N 00624–NH4000011–10 71379 0554011–2, on any Cessna Model 172R airplane.

(g) 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, provided the airplane cabin heater system is not used during that flight.

(h) 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, 1801 Airport Road, Rm. 100, Mid-Continent Airport, 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 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Wichita Aircraft Certification Office.

(i) Copies of this document may be inspected at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri.

(j) This amendment (39–10306) becomes effective on February 23, 1998, to all persons except those persons to whom it was made immediately effective by priority letter AD 98–02–05, issued January 9, 1998, which contained the requirements of this amendment.

Issued in Kansas City, Missouri, on January 28, 1998.

Terry L. Chasteen,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–2774 Filed 2–4–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–CE–85–AD; Amendment 39–10307; AD 98–03–14]

RIN 2120–AA64

Airworthiness Directives; EXTRA Flugzeugbau GmbH Models EA–300 and EA–300/S Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to EXTRA Flugzeugbau GmbH Models EA–300 and EA–300/S airplanes. This AD requires inspecting the upper longeron cutout bridge for cracks, repairing any cracks found, and modifying this area. This AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Germany. The actions specified by this AD are intended to prevent structural damage to the fuselage caused by cracks in the upper longeron cutout bridge, which, if not detected and corrected, could result in loss of control of the airplane.

DATES: Effective March 16, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 16, 1998.

ADDRESSES: Service information that applies to this AD may be obtained from EXTRA Flugzeugbau GmbH, Flugplatz Dinslaken, 46569 Hünxe, Germany. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 97–CE–85–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Karl Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 1201 Walnut Street, suite 900, Kansas City, Missouri 64106; telephone: (816) 426–6934; facsimile: (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Events Leading to the Issuance of This AD

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to EXTRA Flugzeugbau GmbH Models EA–300 and EA–300/S airplanes was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on November 5, 1997 (62 FR 59826). The NPRM proposed to require inspecting the upper longeron cutout bridge for cracks, repairing any cracks found, and modifying this area. Accomplishment of the proposed actions as specified in the NPRM would be required in accordance with EXTRA Service Bulletin No. 300–3–93, dated January 12, 1994.

The NPRM was the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Germany.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed rule or the FAA's determination of the cost to the public.

The FAA's Determination

After careful review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. The FAA has determined that these minor corrections will not change the meaning of the AD and will not add any additional burden upon the public than was already proposed.

Cost Impact

The FAA estimates that 68 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 13 workhours (Inspection: 3 workhours; Modification: 10 workhours) per

airplane to accomplish the required action, and that the average labor rate is approximately $60 an hour. Parts cost approximately $200 per airplane. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be $66,640, or $980 per airplane.

Regulatory Impact

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

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final 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, Incorporation by reference, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

98–03–14 Extra Flugzeugbau GMBH: Amendment 39–10307; Docket No. 97–CE–85–AD.

Applicability: The following models and serial number airplanes, certificated in any category:

Model	Serial numbers
EA–300	V1 and 01 through 50.
EA–300/S	01 through 17.

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 structural damage to the fuselage caused by cracks in the upper longeron cutout bridge, which, if not detected and corrected, could result in loss of control of the airplane, accomplish the following:

(a) Upon accumulating 1,000 hours time-in-service (TIS) on the upper longeron or within the next 100 hours TIS after the effective date of this AD, whichever occurs later, inspect the upper longeron cutout bridge for cracks in accordance with the *Instructions* section of EXTRA Service Bulletin No. 300–3–93, dated January 12, 1994.

(b) Prior to further flight after the inspection required by paragraph (a) of this AD, accomplish the following in accordance with the *Instructions* section of EXTRA Service Bulletin No. 300–3–93, dated January 12, 1994:

(1) Repair any cracks found in the upper longeron cut-out bridge; and

(2) Modify the upper longeron cut-out bridge.

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

(d) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

Note 2: 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 EXTRA Service Bulletin No. 300–3–93, dated January 12, 1994, should be directed to EXTRA Flugzeugbau GmbH, Flugplatz Dinslaken, 46569 Hünxe, Germany. 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.

(f) The inspections, repairs, and modifications required by this AD shall be done in accordance with EXTRA Service Bulletin No. 300–3–93, dated January 12, 1994. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from EXTRA Flugzeugbau GmbH, Flugplatz Dinslaken, 46569 Hünxe, Germany. Copies may be inspected at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in German AD No. 94–043, dated October 21, 1994.

(g) This amendment (39–10307) becomes effective on March 16, 1998.

Issued in Kansas City, Missouri, on January 28, 1998.

Terry L. Chasteen,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–2775 Filed 2–4–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 95

[Docket No. 29123; Amdt. No. 407]

IFR Altitudes; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

EFFECTIVE DATE: 0901 UTC, February 26, 1998.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS–420), Technical Programs Division, Flight Standards Service Federal Aviation Administration, 800 Independence Avenue, SW.,

Washington, DC 20591; telephone: (202) 267–8277.

SUPPLEMENTARY INFORMATION: This amendment to part 95 of the Federal Aviation Regulations (14 CFR part 95) amends, suspends, or revokes IFR altitudes governing the operation of all aircraft in flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in part 95.

The Rule

The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference. The reasons and circumstances that create the need for this amendment involve matters of flight safety and operational efficiency in the National Airspace System, are related to published aeronautical charts that are essential to the user, and provide for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment are impracticable and contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days. The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current.

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

List of Subjects in 14 CFR Part 95

Airspace, Navigation (air).

Issued in Washington, DC, on January 30, 1998.

Richard O. Gordon,

Deputy Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, part 95 of the Federal Aviation Regulations (14 CFR part 95) is amended as follows effective at 0901 UTC.

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

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44719, 44721.

2. Part 95 is amended to read as follows:

REVISIONS TO MINIMUM ENROUTE IFR ALTITUDES & CHANGEOVER POINTS

[Amendment 407 effective date, February 26, 1998]

From	To	MEA
§ 95.6016 VOR Federal Airway 16 Is Amended To Read in Part		
GOMIT, TX FIX	PIZON, TX FIX	*5000
*4400—MOCA		
PIZON, TX FIX	MERGE, TX FIX	*7000
*4200—MOCA		
TEXARKANA, AR VORTAC	*HOSES, AR FIX	2000
*3000—MRA		
SPARO, AR FIX	BUNNS, AR FIX	*6000
*1900—MOCA		
BUNNS, AR FIX	PINE BLUFF, AR VOR/DME	2000
§ 95.6017 VOR Federal Airway 17 Is Amended To Read in Part		
ALEXX, OK FIX	WILL ROGERS, OK VORTAC	3000
§ 95.6066 VOR Federal Airway 66 Is Amended To Read in Part		
BARET, CA FIX	*KUMBA, CA FIX	8000
*6700—MCA KUMBA FIX, W BND		
KUMBA, CA FIX	IMPERIAL, CA VORTAC	*4100
*3600—MOCA		
§ 95.6070 VOR Federal Airway 70 Is Amended To Read in Part		
VIENNA, GA VORTAC	*OCONE, GA FAX	**3000
*3000—MRA		
**2000—MOCA		
§ 95.6140 VOR Federal Airway 140 Is Ameded To Read in Part		
SAYRE, OK VORTAC	*WAXEY, OK FIX	4000
*5000—MRA		
ODINS, OK FIX	KINGFISHER, OK VORTAC	*3500

REVISIONS TO MINIMUM ENROUTE IFR ALTITUDES & CHANGEOVER POINTS—Continued

[Amendment 407 effective date, February 26, 1998]

From	To	MEA
*3100—MOCA		
§ 95.6163 VOR Federal Airway 163 Is Amended To Read in Part		
ARDMORE, OK VORTAC	WILL ROGERS, OK VORTAC	3000
§ 95.6165 VOR Federal Airway 165 Is Amended To Read in Part		
SHAFTER, CA VORTAC	TULE, CA VOR/DME	3000
TULE, CA VOR/DME	DINUB, CA FIX	3500
§ 95.6210 VOR Federal Airway 210 Is Amended To Read in Part		
ROLLS, OK FIX *5000—MRA **3500—MOCA	*WAXEY, OK FIX	**8400
§ 95.6305 VOR Federal Airway 305 Is Amended To Read in Part		
EL DORADO, AR VORTAC	BUNNS, AR FIX	2200
BUNNS, AR FIX	HERID, AR FIX	2000
§ 95.6358 VOR Federal Airway 358 Is Amended To Read in Part		
ALEXX, OK FIX	WILL ROGERS, OK VORTAC	3000
§ 95.6458 VOR Federal Airway 458 Is Amended To Read in Part		
JULIAN, CA VORTAC *5600—MCA KUMBA FIX, NW BND **7000—MOCA	*KUMBA, CA FIX	**8000
KUMBA, CA FIX *3600—MOCA	IMPERIAL, CA VORTAC	*4100
§ 95.6459 VOR Federal Airway 459 Is Amended To Read in Part		
WRING, CA FIX	TULE, CA VOR/DME	5000
TULE, CA VOR/DME	EXTRA, CA FIX	3500
§ 95.6507 VOR Federal Airway 507 Is Amended To Read in Part		
WILL ROGERS, OK VORTAC *5000—MRA **3200—MOCA	*WAXEY, OK FIX	**4000

From	To	MEA	MAA
§ 95.7004 Jet Route No. 4 Is Amended To Read In Part			
ABILENE, TX VORTAC	RANGER, TX VORTAC	18000	45000
RANGER, TX VORTAC	BELCHER, LA VORTAC	18000	45000
§ 95.7021 Jet Route No. 21 Is Amended To Read in Part			
WACO, TX VORTAC	RANGER, TX VORTAC	18000	45000
RANGER, TX VORTAC	ARDMORE, OK VORTAC	18000	45000
ARDMORE, OK VORTAC	WILL ROGERS, OK VORTAC	18000	45000
§ 95.7025 Jet Route No. 25 Is Amended To Read in Part			
WACO, TX VORTAC	RANGER, TX VORTAC	18000	45000
RANGER, TX VORTAC	TULSA, OK VORTAC	18000	45000
§ 95.7033 Jet Route No. 33 Is Amended To Read in Part			
HUMBLE, TX VORTAC	DONIE, TX FIX	18000	45000
DONIE, TX FIX	RANGER TX VORTAC	18000	45000
§ 95.7042 Jet Route No. 42 Is Amended To Read in Part			
ABILENE, TX VORTAC	RANGER, TX VORTAC	18000	45000

From	To	MEA	MAA
RANGER, TX VORTAC	TEXARKANA, AR VORTAC	18000	45000
§ 95.7046 Jet Route No. 46 Is Amended To Read in Part			
VOLUNTEER, TN VORTAC	ATHENS, GA VORTAC	18000	45000
ATHENS, GA VORTAC	ALMA, GA VORTAC	18000	45000
§ 95.7052 Jet Route No. 52 Is Amended To Read in Part			
ARDMORE, OK VORTAC	TEXARKANA, AR VORTAC	18000	45000
§ 95.7058 Jet Route No. 58 Is Amended To Read in Part			
WICHITA FALLS, TX VORTAC	RANGER, TX VORTAC	18000	45000
RANGER, TX VORTAC	ALEXANDRIA, LA VORTAC	18000	45000
§ 95.7066 Jet Route No. 66 Is Amended To Read in Part			
NEWMAN, TX VORTAC	BIG SPRING, TX VORTAC	19000	45000
MEA IS ESTABLISHED WITH A GAP IN NAVIGATION SIGNAL COVERAGE.			
BIG SPRING, TX VORTAC	ABILENE, TX VORTAC	18000	45000
ABILENE, TX VORTAC	RANGER, TX VORTAC	18000	45000
RANGER, TX VORTAC	BONHAM, TX VORTAC	18000	45000
§ 95.7072 Jet Route No. 72 Is Amended To Delete			
WICHITA FALLS, TX VORTAC	DALLAS/FORT WORTH, TX VORTAC	18000	45000
§ 95.7076 Jet Route No. 76 Is Amended To Delete			
WICHITA FALLS, TX VORTAC	DALLAS/FORT WORTH, TX VORTAC	18000	45000
§ 95.7087 Jet Route No. 87 Is Amended To Read in Part			
NAVASOTA, TX VORTAC	TORNN, TX FIX	18000	45000
TORNN, TX FIX	COWBOY, TX VOR/DME	18000	45000
COWBOY, TX VOR/DME	TULSA, OK VORTAC	18000	45000
§ 95.7105 Jet Route No. 105 Is Amended To Read in Part			
RANGER, TX VORTAC	MC ALESTER, OK VORTAC	18000	45000
MC ALESTER, OK VORTAC	RAZORBACK, AR VORTAC	18000	45000
§ 95.7131 Jet Route No. 131 Is Amended To Read in Part			
SAN ANTONIO, TX VORTAC	EDNAS, TX FIX	18000	45000
EDNAS, TX FIX	RANGER, TX VORTAC	18000	45000
RANGER, TX VORTAC	TEXARKANA, AR VORTAC	18000	45000
§ 95.7181 Jet Route No. 181 Is Amended To Read in Part			
RANGER, TX VORTAC	OKMULGEE, OK VOR/DME	18000	45000

From	To	Changeover points	
		Distance	From
§ 95.8003 VOR Federal Airways Changeover Points Airway Segment V–16			
Is amended to delete:			
PINE BLUFF, AR VOR/DME	HOLLY SPRINGS, MS VORTAC	35	PINE BLUFF
Is amended to read in part:			
TEXARKANA, AR VORTAC	PINE BLUFF, AR VOR/DME	62	TEX-ARKANA
§ 95.8005 Jet Routes Changeover Points Airway Segment J–181			
Is amended to delete:			
RANGER, TX VORTAC	OKMULGEE, OK VOR/DME	139	RANGER

[FR Doc. 98–2584 Filed 2–4–98; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 29121; Amdt. No. 1848]

RIN 2120–AA65

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

DATES: An effective date for each SIAP is specified in the mandatory provisions.

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

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

For Examination

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

For Purchase

Individual SIAP copies may be obtained from:

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

By Subscription

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

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

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

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

The Rule

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

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

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

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Navigation (Air).

Issued in Washington, DC on January 23, 1998.

Richard O. Gordon,

Deputy Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR par t97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120, 44701; and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

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

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

* * * *Effective February 26, 1998*

Little Rock, AR, Adams Field, LOC RWY 22R, Orig
Little Rock, AR, Adams Field, ILS RWY 22R, Amdt 8, Cancelled
Little Rock, AR, Adams Field, GPS RWY 4L, Orig
Los Angeles, CA, Los Angeles Intl, ILS RWY 6R, Amdt 15
Los Angeles, CA, Los Angeles Intl, ILS RWY 6L, Amdt 10
Los Angeles, CA, Los Angeles Intl, ILS RWY 7R, Amdt 3
Porterville, CA, Porterville Muni, VOR OR GPS–A, Amdt 1
Rockford, IL, Greater Rockford, ILS RWY 7, Amdt 1
Owensboro, KY, Owensboro-Daviess County, VOR RWY 5, Orig
Owensboro, KY, Owensboro-Daviess County, GPS RWY 5, Orig
Goldsboro, NC, Goldsboro-Wayne Muni, LOC RWY 23, Orig, Cancelled
Goldsboro, NC, Goldsboro-Wayne Muni, ILS RWY 23, Orig
Murfreesboro, TN, Murfreesboro Muni, NDB RWY 18, Orig
Murfreesboro, TN, Murfreesboro Muni, NDB OR GPS RWY 18, Amdt 2, Cancelled

* * * *Effective March 26, 1998*

Escanaba, MI, Delta County, VOR RWY 36, Orig
Escanaba, MI, Delta County, VOR OR GPS RWY 18, Amdt 7A, Cancelled
Greensville, MS, Mid Delta Regional, LOC BC RWY 36R, Amdt 8A, Cancelled

* * * *Effective April 23, 1998*

Phoenix, AZ, Williams Gateway, GPS RWY 30C, Orig
Danielson, CT, Danielson, GPS RWY 31, Orig
New Port Richey, FL, Tampa Bay Executive, GPS RWY 8, Orig, Cancelled
Casey, IL, Casey Muni, NDB OR GPS RWY 4, Amdt 7
Mount Carmel, IL, Mount Carmel Muni, NDB OR GPS RWY 4, Amdt 5
Mount Carmel, IL, Mount Carmel Muni, VOR OR GPS RWY 22, Amdt 9
French Lick, IN, French Lick Muni, NDB RWY 8, Orig
Iola, KS, Allen County, NDB RWY 1, Amdt 1
Iola, KS, Allen County, GPS RWY 1, Orig
Iola, KS, Allen County, GPS RWY 19, Orig
Churchville, MD, Harford County, GPS RWY 10, Orig
Ortonville, MN, Ortonville Muni-Martinson Field, NDB RWY 34, Amdt 2
Ortonville, MN, Ortonville Muni-Martinson Field, GPS RWY 34, Orig
Wilmington, NC, New Hanover International, GPS RWY 6, Orig
Wilmington, NC, New Hanover International, GPS RWY 24, Orig
Laconia, NH, Laconia Muni, GPS RWY 26, Orig
Ticonderoga, NY, Ticonderoga Muni, GPS RWY 2, Orig
Ticonderoga, NY, Ticonderoga Muni, GPS RWY 20, Orig
New Braunfels, TX, New Braunfels Muni, VOR/DME OR GPS–A, Amdt 8, Cancelled
New Braunfels, TX, New Braunfels Muni, VOR/DME–A, Orig
New Braunfels, TX, New Braunfels Muni, NDB OR GPS, RWY 22, Amdt 1, Cancelled
New Braunfels, TX, New Braunfels Muni, NDB–B, Orig
New Braunfels, TX, New Braunfels Muni, VOR/DME RNAV OR GPS RWY 31, Amdt 2, Cancelled
New Braunfels, TX, New Braunfels Muni, VOR/DME RNAV RWY 31, Orig
New Braunfels, TX, New Braunfels Muni, VOR/DME OR RNAV RWY 13, Amdt 2, Cancelled
New Braunfels, TX, New Braunfels Muni, GPS RWY 13, Orig
New Braunfels, TX, New Braunfels Muni, GPS RWY 17, Orig
New Braunfels, TX, New Braunfels Muni, GPS RWY 31, Orig
New Braunfels, TX, New Braunfels Muni, GPS RWY 35, Orig

Note: The FAA published the following amendments in Docket No. 29114; Amdt. No. 1846 to Part 97 of the Federal Aviation Regulations (63 FR 2605, dated January 16, 1998) under § 97.33 effective February 26, 1998 which are hereby rescinded:

Manville, NJ, Central Jersey Regional, GPS RWY 7, Orig
Wisconsin Repaids, WI, Alexander Field South Wood County, GPS RWY 20, Orig

[FR Doc. 98–2587 Filed 2–4–98; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Part 303

DEPARTMENT OF THE INTERIOR

Office of Insular Affairs

[Docket No. 971021249–8006–02]

RIN 0625–AA50

Limit on Duty-Free Insular Watches in Calendar Year 1998

AGENCIES: Import Administration, International Trade Administration, Department of Commerce; Office of Insular Affairs, Department of the Interior.

ACTION: Final rule.

SUMMARY: This action amends the ITA regulations, which govern duty-exemption allocations and duty-refund entitlements for watch producers in the United States' insular possessions (the Virgin Islands, Guam and American Samoa) and the Northern Mariana Islands. The amendments establish the total quantity and respective territorial shares of insular watches and watch movements which are allowed to enter the United States free of duty during calendar year 1998 and make a minor adjustment to the verification of shipments.

EFFECTIVE DATE: March 9, 1998.

FOR FURTHER INFORMATION CONTACT: Faye Robinson, (202) 482–3526.

SUPPLEMENTARY INFORMATION: We published proposed regulatory revisions on November 5, 1997 (62 FR 59829) and invited comments. We received comments from the U.S. Small Business Administration contending that we had not provided sufficient information for the public to evaluate the merits of the agencies' certification under the Regulatory Flexibility Act, and that the proposed reduction in the duty-free allocation exceeded the statutory limit of no more than 10% a year. We address these comments below.

With respect to the comment concerning the Regulatory Flexibility Act, we have included a more detailed explanation, including the nature of the industry, the number of small firms involved, and the effect, if any, on those firms from the reduction in the annual duty-exemption watch allocation. *See* the ''Regulatory Flexibility Act'' section below.

Regarding the contention that the proposed reduction exceeds the amount specified by the regulations, we agree and have made the necessary correction. The limit as to the maximum allowable reduction became a factor this year because of reductions that had been made in previous years, a factor which was inadvertently overlooked in the proposed allocation revisions for calendar year 1998. Section 303.3(b)(2) of the Department Regulations (15 CFR 303.3(b)(2)) specifies that ''the total annual duty-exemption shall not be decreased by more than 10% of the quantity established for the preceding calendar year, * * *'' The regulations further stipulate that ''[n]o territorial share shall be less than 500,000 units.'' 15 CFR 303.4(b). The total annual duty-exemption for 1997 was 4,600,000 units of which 3,100,000 units were allocated to the Virgin Islands, and 500,000 units to Guam, American Samoa and the Northern Mariana Islands respectively. *See Changes in Procedures for the Insular Possessions Watch Program,* 61 FR 55883 (Oct. 30, 1996). The proposed total annual duty-exemption of 4,100,000 units for calendar year 1998

would have resulted in a reduction of 10.87 percent from total units allocated for 1997. Accordingly, we have revised the 1998 duty-exemption such that the total annual duty-exemption has been reduced by no more than 10 percent from the preceding year. Because all but the Virgin Islands have been allocated the minimum allowable units, we have revised the Virgin Islands annual duty-exemption upwards from the proposed limit of 2,600,000 units to 2,640,000 units. While this change for the Virgin Islands represents a decrease of 14.84 percent from the 1997 allocation of 3,100,000 units, the total exemption for all of the insular possessions and the Northern Mariana Islands is within the governing 10 percent limit set out in the Departments' Regulation. 15 CFR 303.3(b)(2). As we discuss further in the ''Regulatory Flexibility Act'' section, we believe these allocations are more than sufficient to meet the needs of the watch companies subject to these regulations.

The insular possessions watch industry provision in Sec. 110 of Pub. L. No. 97–446 (96 Stat. 2331) (1983) as amended by Sec. 602 of Pub. L. No. 103–465 (108 Stat. 4991) (1994) additional U.S. Note 5 to chapter 91 of the Harmonized Tariff Schedule requires the Secretary of Commerce and the Secretary of the Interior, acting jointly, to establish a limit on the quantity of watches and watch movements which may be entered free of duty during each calendar year. The law also requires the Secretaries to establish the shares of this limited quantity which may be entered from the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands. Regulations on the establishment of these quantities and shares are contained in Sec. 303.3 and 303.4 of title 15, Code of Federal Regulations (15 CFR 303.3 and 303.4). The Departments establish for calendar year 1998 a total quantity of 4,140,000 units and respective territorial shares as shown in the following table:

Virgin Islands	2,640,000
Guam	500,000
American Samoa	500,000
Northern Mariana Islands	500,000

The rule also modifies section 303.6(a) by allowing producers to provide other means of verification satisfactory to the Secretaries when we are unable to verify shipments through the U.S. Customs Service.

This final rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., the Assistant General Counsel for Legislation and Regulation has certified to the Chief Counsel, Small Business Administration, that the rule will not have a significant economic impact on a substantial number of small entities. This is because the rulemaking affects only the five watch companies currently participating in the insular possessions watch program, all of which are located in the Virgin Islands. In 1996 these companies used less than half of the territorial share of duty-exemption for the Virgin Islands. Production to date (according to monthly watch production reports received from the Government of the Virgin Islands) indicates that these same companies will again use less than half the territorial share allocated for 1997. Based on these facts, we conclude that the annual duty-exemption allocation of 2,640,000 units will more than adequately meet the aggregate requirements of these Virgin Islands companies for calendar year 1998. Accordingly, the 1998 annual duty-exemption established for the Virgin Islands should not impose any cost or have any economic effect on these small companies.

This action establishes the respective amounts available for allocation. The allocation itself, based on verified data contained in the companies' annual applications due by January 31, 1998, will be published later in 1998, pursuant to 15 CFR 303.5 and 303.6.

Paperwork Reduction Act

This rulemaking involves information collection activities subject to the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq. which are currently approved by the Office of Management and Budget under control number 0625–0134. The amendments would have no effect on the information burden on the public.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information unless it displays a currently valid OMB Control Number.

It has been determined that this rule is not significant for purposes of Executive Order 12866.

List of Subjects in 15 CFR Part 303

Administrative practice and procedure, American Samoa, Customs duties and inspection, Guam, Imports, Marketing quotas, Northern Mariana Islands, Reporting and recordkeeping requirements, Virgin Islands, Watches and jewelry.

For reasons set forth above, we are amending 15 CFR Part 303 as follows:

PART 303—[AMENDED]

1. The authority citation for 15 CFR Part 303 continues to read as follows:

Authority: Pub. L. 94–241, 90 Stat. 263 (48 U.S.C. 1681, note); Pub. L. 97–446, 96 Stat. 2331 (19 U.S.C. 1202, note); Pub. L. 103–465, 108 Stat. 4991.

§ 303.6 [Amended]

2. Section 303.6(a) is amended by adding to the second to last sentence '', or verified by other means satisfactory to the Secretaries,'' after the words U.S. Customs Service.

§ 303.14 [Amended]

3. Section 303.14(e) is amended by removing ''3,100,000'' and adding ''2,640,000'' in its place.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

Allen Stayman,

Director, Office of Insular Affairs.

[FR Doc. 98–2893 Filed 2–4–98; 8:45 am]

BILLING CODE 3510–DS–P, 4310–93–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 946

[VA–111–FOR]

Virginia Abandoned Mine Land Reclamation Plan

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

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is announcing the approval of a proposed amendment to the Virginia Abandoned Mine Land Reclamation (AMLR) Program (hereinafter referred to as the Virginia Program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA), 30 U.S.C. 1201 *et seq.*, as amended. The proposed amendment makes changes to the Ranking and Selection section and to the AML Water Project Evaluation form. The amendment is intended to revise the Virginia program to be consistent with SMCRA, and to improve the efficiency of the Virginia program.

EFFECTIVE DATE: February 5, 1998.

FOR FURTHER INFORMATION CONTACT: Mr. Robert A. Penn, Director, Big Stone Gap

Field Office, Telephone: (540) 523–4303.

SUPPLEMENTARY INFORMATION:

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

I. Background on the Virginia Plan

On December 15, 1981, the Secretary of the Interior conditionally approved the Virginia program. Background on the Virginia program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the December 15, 1981 **Federal Register** (46 FR 61085–61115). Subsequent actions concerning the conditions of approval and AMLR program amendments are identified at 30 CFR 946.20 and 946.25.

II. Submission of the Proposed Amendment

By letter dated September 19, 1997 (Administrative Record Number VA–926), the Division of Mined Land Reclamation (DMLR) of the Department of Mines, Minerals and Energy (DMME) of the Commonwealth of Virginia submitted changes to the approved Virginia plan. The amendment makes changes to the Ranking and Selection section of the Virginia plan, concerning Acid Mine Drainage Abatement—Treatment. The amendment also changes the AML Water Project Evaluation form.

OSM announced receipt of the proposed amendment in the October 14, 1997, **Federal Register** (62 FR 53275), and in the same document opened the public comment period and provided an opportunity for a public hearing on the adequacy of the proposed amendment. The public comment period closed on November 13, 1997. No public hearing was requested, so none was held.

III. Director's Findings

As discussed below, the Director, in accordance with SMCRA and 30 CFR 884.14 and 884.15, finds that the proposed plan amendments submitted by Virginia on September 19, 1997, meet the requirements of the corresponding Federal regulations and is consistent with SMCRA.

Ranking and Selection 884.13(c)(2)

In this section, Virginia changed the heading of the paragraph titled ''*Acid Mine Drainage Abatement—Treatment*'' to read ''*Set Aside Funds,*'' revised the language of that subsection to include the provisions of Part A of section 402(g)(6) of SMCRA.

The revised language is as follows:

Set Aside Funds

In accordance with Section 402(g)(6) of SMCRA, Virginia may, without regard to the 3 year limitation referred to in Section 402(g)(1)(D) of SMCRA, receive and retain up to 10 percent of the total grants made annually under Section 402(g)(1) and (5) of SMCRA by the Secretary for deposit into either:

A. A special trust fund established under State law pursuant to which such amounts (together with all interest earned on such amounts) are expended by Virginia solely to achieve the priorities stated in section 403(a) of SMCRA after September 30, 1995, or

B. An acid mine drainage abatement and treatment fund established under State law as provided for under 30 CFR Part 876. An interest bearing acid mine drainage abatement and treatment fund will be utilized by Virginia, in consultation with the Natural Resources Conservation Service, to implement acid mine drainage abatement—treatment plans approved by the Secretary of the Interior.

The remainder of the previously-existing section (formerly entitled ''Acid Mine Drainage Abatement—Treatment'' remains unchanged, and is quoted below.

These plans shall provide for the comprehensive abatement of the causes and treatment of the effects of acid mine drainage within qualified hydrologic units affected by coal mining practices. The plan shall include, but shall not be limited to, each of the following:

(a) An identification of the qualified hydrologic unit.

(b) The extent to which acid mine drainage is affecting the water quality and biological resources within the hydrologic unit.

(c) An identification of the sources of acid mine drainage within the hydrologic unit.

(d) An identification of individual projects and the measures proposed to be undertaken to abate and treat the causes or effects of acid mine drainage within the hydrologic unit.

(e) The cost of undertaking the proposed abatement and treatment measures.

(f) An identification of existing and proposed sources of funding for such measures.

(g) An analysis of the cost-effectiveness and environmental benefits of abatement and treatment measures.

Under this program, the term ''qualified hydrologic unit'' means a hydrologic unit.

(a) in which the water quality has been significantly affected by acid mine drainage from coal mining practices in a manner which adversely impacts biological resources; and

(b) which contains lands and water that are:

1. eligible pursuant to Section 404 and include any of the priorities stated in SMCRA paragraph (1), (2), or (3) of Section 403(a); and

2. proposed to be the subject of the expenditures by the State from amounts available from the forfeiture of bonds required under Section 509 or from other State sources to mitigate acid mine drainage.

The Director finds that the provisions of this amendment are either substantively identical to or no less stringent than § 402 (g)(6) and (g)(7) of SMCRA and meet the requirements of the Federal regulations at 30 CFR 844.13(c)(2) and can be approved.

AML Water Project Evaluation Form

The AML Water Project Evaluation form is currently part of the approved Virginia program. Virginia changed four sections of the form, and provided the following rationale for the changes.

Appropriate Project Costs (Cost per Connection)

That this section was revised to more realistically reflect the cost/hook-ups being experienced. Most cost/hook-ups now reflect a 10,000–20,000 range. This is because of the high cost for construction due to the distance between households, and the mountainous terrain.

Affordability

''Costs for 4,200 gal. of treated water'' was changed to read ''Costs for 3,500 gal. of treated water'' to show the average use and to match usage rates used by other funding agencies as reflected in the review manual application.

Level of Commitment of Non-AML Funds

The points award were modified to encourage local funding and leverage AML funding to the maximum extent possible.

AML Bonus Award

The new review category is meant to promote and encourage awards to proposed projects which incorporate regionalization and consolidated management. Regionalization of water systems reduces costs and promotes efficiency in providing water to the greatest number of households. Points awarded for this will be between 1–5, and a total perfect score will now be 105. The average score on projects is 60–80.

The Director finds that the explanation provided by Virginia for the revision to the form appears reasonable and justified. Further, the rationale also appears to reflect Virginia's intent to further direct Virginia's efforts toward achieving AML reclamation and hazard abatement consistent with the reclamation priorities system contained within § 403(a) and § 411 of SMCRA. Therefore, the Director finds that the proposed amendments are not inconsistent with the Federal regulations at 30 CFR 884.13(c)(2) concerning ranking and selection and can be approved.

In addition to the above changes to the form, Virginia requested that the AML Water Project Evaluation form—figure 2 be removed from the AML State Reclamation Plan and placed into the Administrative Record. However, the form will still be referenced in the

Virginia plan. Virginia explained that the dynamic nature of this form may require that the form be further amended in the future. Therefore, removal of the form from the Virginia plan and placing the form separately into the Administrative Record will allow the form to be quickly amended as needed. The Director is complying with the State's request but notes, however, that since the form is part of Virginia's approved process for ranking and selecting water projects under 30 CFR 884.13(c)(2) and Part 874, any future substantive changes made to the form must be submitted to OSM for approval as part of a proposed program amendment. Therefore, the Director is placing the AML Water Project Evaluation form into the administrative record at Administrative Record Number VA–927 with the understanding that any future substantive changes made to the form must be submitted to OSM for approval as part of a proposed program amendment.

IV. Summary and Disposition of Comments

Public Comments

The Director solicited public comments and provided an opportunity for a public hearing on the proposed amendment. No public comments were received in response to the public comment period that ended on November 13, 1997. Because no one requested an opportunity to speak at a public hearing, no hearing was held.

Federal Agency Comments

Pursuant to 884.14(a)(2) and 884.15(a), OSM solicited comments on the proposed amendment from various other Federal agencies with an actual or potential interest in the Virginia plan (Administrative Record number VA–928). Responses were received from the U.S. Fish and Wildlife Service (USFWS), U.S. Department of Agriculture, Natural Resources Conservation Service (NRCS), and the U.S. Department of Labor, Mine Safety and Health Administration (MSHA).

MSHA responded that the proposed measures appear to be adequate to serve the intended purpose. NRCS stated that the amendments be accepted with one comment noted. NRCS said that part VI—Bonus Awards of the AML Water Project Evaluation form lists no ranking criteria and thus appears to be subjective. In response, the Director notes that Virginia has clearly identified the focus of the 5-point bonus award and does have criteria for the bonus award. In its submittal of this amendment, Virginia explained that the bonus award will be awarded to projects which incorporate regionalization and consolidated management. The DMLR noted that such regionalization of water systems reduces costs and promotes efficiency in providing water to the greatest number of households. In addition, by letter dated December 5, 1997 (Administrative Record Number VA–940), the DMLR responded to the NRCS comment. The DMLR stated that regional project criteria may include interconnection with other authorities, consolidation of management, operation, maintenance or distribution systems among smaller system authorities or guidance of significant local funding from more than one service provider in a regional project. DMLR further stated that projects with a regional scope will be awarded a greater number of points if executed contracts are finalized versus projects where there has been merely a discussion of a regional project, but no specific activities have been completed which demonstrate progress toward regionalization. As noted above in the findings, the Director has determined that the proposed provision is not inconsistent with the Federal regulations at 30 CFR 884.13(c)(2) concerning ranking and selection and can be approved.

USFWS responded (Administrative Record Number VA–937) and recommended that subparagraph (b) of the section newly titled ''Set Aside Funds'' be revised by adding the words ''A physical, chemical, and biological assessment of'' to the beginning of the subparagraph. USFWS explained that the change would clarify how the extent of the acid mine drainage effects to water quality and biological resources should be assessed. In response, the Director notes that the provision commented on by USFWS is not being amended by Virginia and, therefore, is beyond the scope of this amendment. In addition, the provision commented on by the USFWS is identical to its counterpart in SMCRA at § 402(g)(7)(B)(ii).

Environmental Protection Agency (EPA)

Pursuant to 30 CFR 732.17(h)(11)(ii), the Director is required to obtain the written concurrence of the Administrator of EPA with respect to those provisions of the proposed plan amendment that relate to air or water quality standards promulgated under the authority of the Clean Air Act (42 U.S.C. 7401 *et seq.*) or the Clean Water Act (33 U.S.C. 1252 *et seq.*). The Director has determined that the proposed amendments contain no provisions in these categories and that EPA's concurrence is not required.

Pursuant to 732.17(h)(11)(I), OSM solicited comments on the proposed amendments from the EPA. No comments were received from the EPA.

State Historical Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Pursuant to 30 CFR 732.17(h)(4), OSM solicited comments on the proposed amendment from the SHPO and ACHP. No comments were received.

V. Director's Decision

Based on the above findings, the Director is approving the proposed AMLR plan amendment as submitted by Virginia on September 19, 1997.

The Federal regulations at 30 CFR 946.25, codifying decisions concerning the Virginia plan amendments, are being amended to implement this decision. This final rule is being made effective immediately to expedite the State plan amendment process and to encourage States to bring their plans into conformity with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

VI. Procedural Determinations

Executive Order 12866

This proposed rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12988

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State and Tribal abandoned mine land reclamation plans and revisions thereof since each such plan is drafted and promulgated by a specific State or Tribal, not by OSM. Decisions on proposed abandoned mine land reclamation plans and revisions thereof submitted by a State or Tribe are based on a determination of whether the submittal meets the requirements of Title IV of SMCRA (30 U.S.C. 1231–1243) and 30 CFR Parts 884 and 888.

National Environmental Policy Act

No environmental impact statement is required for this rule since agency decisions on proposed State and Tribal abandoned mine land reclamation plans

and revisions thereof are categorically excluded from compliance with the National Environmental Policy Act (42 U.S.C. 4332) by the Manual of the Department of the Interior (516 DM 6, appendix 8, paragraph 8.4B(29)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not 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 State submittal which is the subject of this rule is based upon corresponding Federal regulations for which an economic analysis was prepared and certification made that such regulations would have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions in the analyses for the corresponding Federal regulations.

Unfunded Mandates

This rule will not impose a cost of $100 million or more in any given year on any governmental entity or the private sector.

List of Subjects in 30 CFR Part 964

Intergovernmental relations, Surface mining, Underground mining.

Dated: January 16, 1998.

Ronald C. Recker,

Acting Regional Director, Appalachian Regional Coordinating Center.

For the reasons set out in the preamble, title 30, chapter VII, subchapter T of the Code of Federal Regulations is amended as set forth below:

PART 946—VIRGINIA

1. The authority citation for part 946 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 946.25 is amended in the table for paragraph (a) by adding a new entry in chronological order by ''Date of Final Publication'' to read as follows:

§ 946.25 Approval of Virginia abandoned mine land reclamation plan amendments.

(a) * * *

Original amendment submission date	Date of final publication	Citation/description
* * *	* * *	* * *
September 19, 1997	[Insert date of publication in the Federal Register].	Revisions to the Virginia State Reclamation Plan corresponding to 30 CFR 884.13(c)(2)—Ranking and Selection: Set Aside Funds; and the AML Water Project Evaluation form.

[FR Doc. 98–2779 Filed 2–4–98; 8:45 am]

BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 60 and 61

[FRL–5962–4]

Standards of Performance for New Stationary Sources and National Emission Standards for Hazardous Air Pollutants: Approval of Delegation of Authority to New Mexico

AGENCY: Environmental Protection Agency (EPA).

ACTION: Delegation of authority.

SUMMARY: The EPA is approving the delegation of authority to the State of New Mexico to implement and enforce the New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP). The provisions of full authority apply to all of the NSPS and NESHAP promulgated by the EPA from April 1, 1996, through July 1, 1997. Partial authority covers all new and amended standards promulgated after these dates. The delegation of authority, under this document, does not apply to: the sources located in Bernalillo County, New Mexico; the sources located on Indian lands as specified in the delegation agreement and in this notice; the standards of performance for new residential wood heaters (subpart AAA) under 40 CFR part 60; and NESHAP radionuclide standards specified under 40 CFR part 61.

EFFECTIVE DATE: February 5, 1998.

ADDRESSES: The New Mexico Environment Department's request and delegation agreement may be obtained by writing to one of the following addresses:

Mr. Thomas H. Diggs, Chief, Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, TX 75202, telephone: (214) 665–7214.

Air Quality Bureau, New Mexico Environment Department (NMED), Harold Runnels Building, Room So. 2100, 1190 St. Francis Drive, Santa Fe, NM 87502, telephone: (505) 827–0042.

FOR FURTHER INFORMATION CONTACT: Mr. Ken Boyce, Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202, telephone: (214) 665–7259.

SUPPLEMENTARY INFORMATION: Section 301, in conjunction with sections 110, 111(c)(1) and 112(l)(1) of the Clean Air Act (the Act), authorize the EPA to delegate authority to implement and enforce the standards set out in 40 CFR part 60, New Source Performance Standards and 40 CFR part 61, National Emission Standards for Hazardous Air Pollutants. Authority for the NSPS and NESHAP programs was delegated to the State of New Mexico (except for sources located in Bernalillo County and on Indian lands) on March 15, 1985.

The State requested the EPA to update the delegation of authority to the State for the NSPS and NESHAP programs from April 1, 1996, through July 1, 1997. The State's request includes a revision of Air Quality Control Regulations (AQCR) 20 NMAC 2.77 and 20 NMAC 2.78 as adopted by the New Mexico Environmental Improvement Board. These revisions incorporated the Federal NSPS and NESHAP by reference through July 1, 1997. The effective date of the Federal delegation for NSPS under section 111 will continue to be the EPA's letter of approval of the State's request for the NSPS delegation update.

The title V **Federal Register** (FR) document (59 *FR* 59656–59660, (November 18, 1994)) outlined the State's plans to continue to incorporate by reference the Federal section 112 requirements regarding hazardous air pollutants into the New Mexico Air

Quality Control Regulations, and stated that the NMED's request for approval of the part 70 program is also a request for approval of a program for delegation of unchanged section 112 standards. Based on approval of NMED's procedural mechanism for adopting Federal section 112 standards through incorporation by reference into the State's part 70 Operating Permit Program, the EPA can continue to update the State's delegation of section 112 standards along with the update of section 111 NSPS. The effective date of the delegation for unchanged Federal standards under section 112 is the effective date of the State's rule after its adoption. In this case, the effective date is June 19, 1996.

Since review of the pertinent New Mexico laws, rules, and regulations showed them to be adequate for the implementation and enforcement of the aforementioned category of NSPS and NESHAP, EPA is delegating full authority to the State for NSPS and NESHAP standards promulgated from April 1, 1996, through July 1, 1997, and authority for the technical and administrative review of new or amended NSPS and NESHAP promulgated by the EPA, subject to conditions and limitations of the original delegation agreement dated March 15, 1985. It is important to note that no delegation authority is granted to the NMED for Bernalillo County and Indian lands. Also, no authority is delegated to the State for 40 CFR part 60, subpart AAA, Standards of Performance for New Residential Wood Heaters and for 40 CFR part 61 for the radionuclide NESHAP's. Specifically, the subparts for which delegation is excluded are subpart B (National Emission Standards for Radon-222 Emissions from Underground Uranium Mines), subpart H (National Emission Standards for Radionuclide Emissions from Department of Energy Facilities), subpart I (National Emission Standards for Radionuclide Emissions from Facilities Licensed by the Nuclear Regulatory Commission and Federal Facilities not covered by subpart H), subpart K—(National Emission Standards for Radionuclide Emissions from Elemental Phosphorus Plants), subpart R (National Emission Standards for Radon Emissions from Phosphogypsum Stacks), and subpart W (National Emission Standards for Radon-222 Emissions from Licensed Uranium Mill Tailings).

All of the information required pursuant to the Federal NSPS and NESHAP (40 CFR parts 60 and 61) should be submitted by sources located outside the boundaries of Bernalillo County and in areas outside of Indian lands, directly to the NMED, Harold Runnels Building, Room So. 2100, St. Francis Drive, Santa Fe, New Mexico 87502. Albuquerque/Bernalillo County is excluded from this action because this area is granted delegation authority under AQCR 30 NSPS and 31 NESHAP to the City of Albuquerque's Environmental Health Department. In regards to Indian land, the President established in 1983 a Federal Indian Policy which emphasized the principle of Indian ''self-government,'' and direct dealing with Indian Nations on a ''government-to-government'' basis. Sources located on Indian lands in the State of New Mexico should submit required information to EPA Region 6 office at the address given in this notice. All of the inquiries and requests concerning implementation and enforcement of the excluded standards under 40 CFR part 60, subpart AAA and 40 CFR part 61, subparts B, H, I, K, R, and W, in the State of New Mexico should be directed to the EPA Region 6 Office.

The Office of Management and Budget has exempted this information notice from requirements of section 6 of Executive Order 12866.

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996. EPA 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 rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 60

Air pollution control, Aluminum, Ammonium sulfate plants, Cement industry, Coal, Copper, Electric power plants, Fertilizer, Fossil-fuel steam generators, Glass and glass products, Grain, Iron, Lead, Metals, Motor vehicles, Nitric acid plants, Paper and paper industry, Petroleum phosphate, Sewage disposal, Steel, Sulfuric acid plants, Waste treatment and disposal of Zinc.

List of Subjects in 40 CFR Part 61

Air pollution control, Asbestos, Benzene, Beryllium, Hazardous materials, Mercury, Vinyl chloride.

Authority: This document is issued under the authority of sections 101, 111, 112 and 301 of the Clean Air Act, as amended (42 U.S.C. 7401, 7411, 7412 and 7601).

Dated: January 27, 1998.

Van P. Kozak,

Acting Regional Administrator, Region VI.

[FR Doc. 98–2879 Filed 2–4–98; 8:45 am]

BILLING CODE 6560–50–P

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101–46

[FPMR Amendment H–197]

RIN 3090–AG50

Replacement of Personal Property Pursuant to the Exchange/Sale Authority

AGENCY: Office of Governmentwide Policy, GSA.

ACTION: Final rule.

SUMMARY: 41 CFR 101–46 is revised to enhance executive agencies' understanding of the exchange/sale authority and to provide those agencies with greater flexibility and opportunity to use that authority.

EFFECTIVE DATE: February 5, 1998.

FOR FURTHER INFORMATION CONTACT: Martha Caswell, Director, Personal Property Management Policy Division (202–501–3828).

SUPPLEMENTARY INFORMATION:

A. Background

The following questions and answers have been developed to explain the purpose and intended use of the exchange/sale authority, and to explain the changes to the exchange/sale regulations promulgated by this final rule:

What is the exchange/sale authority?

An authority provided by Section 201(c) of the Federal Property and Administrative Services Act of 1949, as amended, under which executive agencies ''may exchange or sell similar items and may apply the exchange allowance or proceeds of sale in such cases in whole or in part payment for the property acquired''.

When should executive agencies use the exchange/sale authority?

When replacing personal property. An example would be the need of an executive agency to replace outdated scientific equipment. Why should executive agencies use the exchange/sale authority?

To reduce the agencies' need for additional funding for the acquisition of replacement personal property. If an agency has personal property that needs to be replaced, it can exchange or sell that property and apply the exchange

allowance or sales proceeds to the acquisition of similar replacement property. Using the exchange/sale authority also enables agencies to avoid the costs (e.g., administrative and storage) associated with holding the property and processing it through the normal disposal cycle, i.e., reutilization by other Federal agencies, donation to eligible non-Federal public or non-profit organizations, sale to the public, or abandonment or destruction. By contrast, if the holding agency does not use the exchange/sale authority but instead reports the property to be replaced as excess, any sales proceeds are forwarded to the miscellaneous receipts account at the United States Treasury and are not available to the agency disposing of the property.

What effect will these changes have on other Federal personal property disposal programs?

This is unknown. The effect will depend on the extent to which executive agencies increase their use of the exchange/sale authority.

Why have changes been made to the exchange/sale regulations?

The regulations have not been subjected to a comprehensive review and revision for over thirty years. The regulations are now being updated to reflect shrinking agency budgets and to increase their usefulness and effectiveness.

Who recommended the changes?

An interagency team led by GSA. In the course of its work, the team consulted with various customers and stakeholders, including representatives from the Office of Management and Budget, the House of Representatives Committee on Government Reform and Oversight, and the National Association of State Agencies for Surplus Property.

What changes have been made?

Changes have been made to incorporate plain language principles, reduce restrictions and limitations on use of the authority, streamline the narrative, define key terms, update organizational references, delete outdated regulatory references, and specify minimal documentation requirements.

B. The General Services Administration (GSA) has determined that this rule is not a significant regulatory action for the purposes of Executive Order 12866 of September 30, 1993.

C. Regulatory Flexibility Act

This rule is not required to be published in the **Federal Register** for public comment. Therefore, the Regulatory Flexibility Act does not apply.

D. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed revisions do not impose recordkeeping or information collection requirements, or the collection of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501–3520. This rule also is exempt from Congressional review prescribed under 5 U.S.C. 801 since it relates solely to agency management and personnel. This rule is written in a ''plain language'' style.

What is the ''plain language'' style of regulation writing?

The ''plain language'' style of regulation writing is a new, simpler to read and understand, question and answer regulatory format.

How does the plain language style of regulation writing affect employees?

A question and its answer combine to establish a rule. The employee and the agency must follow the language contained in both the question and its answer.

List of Subjects in 41 CFR Part 101–46

Government property management.

Therefore, 41 CFR part 101–46 is revised as set forth below:

PART 101–46—REPLACEMENT OF PERSONAL PROPERTY PURSUANT TO THE EXCHANGE/SALE AUTHORITY

Sec.

101–46.000 Why should executive agencies use the exchange/sale authority?
101–46.001 What is prescribed by this part?
101–46.002 What are the definitions of some of the key terms used in this part?
101–46.002–1 Acquire.
101–46.002–2 Combat material.
101–46.002–3 Exchange.
101–46.002–4 Exchange/sale.
101–46.002–5 Executive agency.
101–46.002–6 Federal agency.
101–46.002–7 Historic item.
101–46.002–8 Replacement.
101–46.002–9 Similar.
101–46.003 How do you request deviations from this part, and who can approve them?

Subpart 101–46.1—[Reserved]

Subpart 101–46.2—Exchange or Sale Determination

101–46.200 How do you determine whether to do an exchange or a sale?
101–46.201 When must you make a reimbursable transfer to another Federal agency?
101–46.202 To what other organizations may you make a reimbursable transfer?
101–46.203 What are the conditions for a reimbursable transfer?
101–46.204 What prohibitions and necessary conditions apply to the exchange/sale of personal property?
101–46.205 What special exceptions apply to the exchange/sale authority?

Subpart 101–46.3—Exchange/Sale Methods

101–46.300 What are the exchange methods?
101–46.301 What are the sales methods?
101–46.302 What are the accounting requirements for the proceeds of sale?

Authority: Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)).

§ 101–46.000 Why should executive agencies use the exchange/sale authority?

To reduce the agencies' need for additional funding for the acquisition of replacement personal property. If an agency has personal property that needs to be replaced, it can exchange or sell that property and apply the exchange allowance or sales proceeds to the acquisition of similar replacement property. Using the exchange/sale authority also enables agencies to avoid the costs (e.g., administrative and storage) associated with holding the property and processing it through the normal disposal cycle, i.e., reutilization by other Federal agencies, donation to eligible non-Federal public or non-profit organizations, sale to the public, or abandonment or destruction. By contrast, if the holding agency does not use the exchange/sale authority but instead reports the property to be replaced as excess, any sales proceeds are forwarded to the miscellaneous receipts account at the United States Treasury and are not available to the agency disposing of the property.

§ 101–46.001 What is prescribed by this part?

Provisions for use by you (an executive agency) when using the exchange/sale authority of section 201(c) of the Federal Property and Administrative Services Act of 1949, 63 Stat. 384, as amended (40 U.S.C. 481(c)). This part applies to all personal property owned by executive agencies worldwide. For the exchange/sale of aircraft parts and hazardous materials, you must meet the requirements in this part and in parts 101–37 and 101–42 of this chapter, respectively.

§ 101–46.002 What are the definitions of some of the key terms used in this part?

§ 101–46.002–1 Acquire.

To procure or otherwise obtain personal property, including by lease.

§ 101–46.002–2 Combat material.

Arms, ammunition, and implements of war listed in the U.S. munitions list (22 CFR part 121).

§ 101–46.002–3 Exchange.

To replace personal property by trade or trade-in with the supplier of the replacement property.

§ 101–46.002–4 Exchange/sale.

To exchange or sell non-excess, non-surplus personal property and apply the exchange allowance or proceeds of sale in whole or in part payment for the acquisition of similar property.

§ 101–46.002–5 Executive agency.

Any executive department or independent establishment in the executive branch of the Government, including any wholly owned Government corporation.

§ 101–46.002–6 Federal agency.

Any executive agency or any establishment in the legislative or judicial branch of the Government (except the Senate, the House of Representatives, and the Architect of the Capitol and any activities under his/her direction).

§ 101–46.002–7 Historic item.

Property having added value for display purposes because its historical significance is greater than its fair market value for continued use. Items that are commonly available and remain in use for their intended purpose, such as military aircraft still in use by active or reserve units, are not historic items.

§ 101–46.002–8 Replacement.

The process of acquiring property to be used in place of property which is still needed but will no longer adequately perform all the tasks for which it is used.

§ 101–46.002–9 Similar.

Where the acquired item and replaced item:

(a) Are identical; or

(b) Are designed and constructed for the same purpose; or

(c) Both constitute parts or containers for identical or similar end items; or

(d) Both fall within a single Federal Supply Classification (FSC) group of property that is eligible for handling under the exchange/sale authority.

§ 101–46.003 How do you request deviations from this part, and who can approve them?

(a) General provisions for deviations from the Federal Property Management Regulations are found in § 101–1.110 of this chapter. Provisions for deviations from the regulations in this part are presented in this section.

(b) To request deviations from this part, you must submit a complete written justification to the General Services Administration (GSA), Office of Governmentwide Policy, Office of Transportation and Personal Property (MT), Washington, DC 20405. Only the Administrator of General Services (or designee) may grant deviations. Although the Administrator can approve deviations from most of the provisions in this part, he/she cannot approve deviations from provisions that are mandated by statute, i.e., the requirement at 101–46.204(b)(1) that the property exchanged or sold is similar to the property acquired, and the requirement at 101–46.204(b)(2) that the property exchanged or sold is not excess or surplus.

Subpart 101–46.1—[Reserved]

Subpart 101–46.2—Exchange or Sale Determination

§ 101–46.200 How do you determine whether to do an exchange or a sale?

(a) You must determine which method—exchange or sale—will provide the greater return for the Government. When estimating the return under each method, consider all administrative and overhead costs.

(b) If the exchange allowance or estimated sales proceeds for property would be unreasonably low, you should process the property according to the regulations in Part 101–43 (Utilization of Personal Property) or Subpart 101–45.9 (Abandonment or Destruction of Personal Property) of this subchapter, as applicable.

§ 101–46.201 When must you make a reimbursable transfer to another Federal agency?

If you have property to replace which is eligible for exchange/sale, you should, to the maximum extent practicable, first solicit Federal agencies known to use or distribute such property and, if an agency wants it, arrange for a reimbursable transfer. Property that meets the replacement standards prescribed in subpart 101–25.4 of this chapter is not subject to this requirement.

§ 101–46.202 To what other organizations may you make a reimbursable transfer?

The Senate, the House of Representatives, the Architect of the Capitol and any activities under the Architect's direction, the District of Columbia, and mixed-ownership Government corporations.

§ 101–46.203 What are the conditions for a reimbursable transfer?

When transferring property, you must:

(a) Do so under terms mutually agreeable to you and the recipient; and

(b) Not require reimbursement of an amount greater than the estimated fair market value of the transferred property; and

(c) Apply the transfer proceeds in whole or part payment for property acquired to replace the transferred property.

§ 101–46.204 What prohibitions and necessary conditions apply to the exchange/sale of personal property?

(a) You must not use the exchange/sale authority for:

(1) The following FSC groups of personal property:

10 Weapons.
11 Nuclear ordnance.
12 Fire control equipment.
14 Guided missiles.
15 Aircraft and airframe structural components, except FSC class 1560 Airframe Structural Components.
42 Firefighting, rescue, and safety equipment.
44 Nuclear reactors (FSC class 4472 only).
51 Hand tools.
54 Prefabricated structure and scaffolding.
68 Chemicals and chemical products, except medicinal chemicals.
71 Furniture.
84 Clothing, individual equipment, and insignia.

(2) Materials in the National Defense Stockpile (50 U.S.C. 98–98h) or the Defense Production Act inventory (50 U.S.C. App. 2093).

(3) Nuclear Regulatory Commission-controlled materials unless you meet the requirements of § 101–42.1102–4 of this subchapter.

(4) Controlled substances, unless you meet the requirements of § 101–42.1102–3 of this subchapter.

(5) Scrap materials, except in the case of scrap gold for fine gold.

(6) Property which was originally acquired as excess or forfeited property or from another source other than new procurement, unless such property has been in official use by the acquiring agency for at least 1 year. You may exchange or sell forfeited property in official use for less than 1 year if the head of your agency determines that a continuing valid requirement exists, but the specific item in use no longer meets that requirement, and that exchange or sale meets all other requirements of this part.

(7) Property that is dangerous to public health or safety without first rendering such property innocuous or providing for adequate safeguards as part of the exchange/sale.

(8) Combat material without demilitarizing it in accordance with applicable regulations.

(9) Flight Safety Critical Aircraft Parts unless you meet the provisions of § 101–37.610 of this chapter.

(10) Acquisition of unauthorized replacement property.

(11) Acquisition of replacement property which violates:

(i) Any restriction on procurement of a commodity or commodities; or

(ii) Any replacement policy or standard prescribed by the President, the Congress, or the Administrator of General Services; or

(iii) Any contractual obligation.

(b) You may use the exchange/sale authority only if you meet all of the following conditions:

(1) The property exchanged or sold is similar to the property acquired; and

(2) The property exchanged or sold is not excess or surplus, and the property acquired is needed for approved programs; and

(3) The number of items acquired must equal the number of items exchanged or sold unless:

(i) The item(s) acquired perform all or substantially all of the tasks for which the item(s) exchanged or sold would otherwise be used; or

(ii) The item(s) acquired and the item(s) exchanged or sold meet the test for similarity specified at § 101–46.002–9(iii) in that they are a part(s) or container(s) for identical or similar end items; and

(4) The property exchanged or sold was not acquired for the principal purpose of exchange or sale; and

(5) You document at the time of exchange or sale (or at the time of acquisition if it precedes the sale):

(i) That the exchange allowance or sale proceeds will be applied to the acquisition of replacement property; and

(ii) For any property exchanged or sold under this part, the pertinent Federal Supply Classification (FSC) Group, the number of items, the original acquisition cost, the exchange allowance or sales proceeds (as applicable), and the source from which the property was originally acquired i.e., new procurement, excess, forfeiture, or another source other than new procurement. These data, aggregated at the agency level, may be requested by GSA to evaluate use of the exchange/sale authority.

§ 101–46.205 What special exceptions apply to the exchange/sale authority?

(a) You may exchange books and periodicals in your libraries for other books and periodicals, without monetary appraisal or detailed listing or reporting.

(b) In acquiring items for historical preservation or display at Federal museums, you may exchange historic items in the museum property account without regard to the FSC group or the requirement in § 101–46.204(b)(3), provided the exchange transaction is documented and certified by the head of your agency to be in the best interests of the Government and all other provisions of this part are met. The documentation must contain a determination that the item exchanged and the item acquired are historic items.

Subpart 101–46.3—Exchange/Sale Methods

§ 101–46.300 What are the exchange methods?

Exchange of property may be accomplished by either of the following two methods:

(a) The supplier (e.g., a Government agency, commercial or private organization, or an individual) delivers the replacement property to one of your organizational units and removes the property being replaced from that same organizational unit. This is the normal manner of exchange.

(b) The supplier delivers the replacement property to one of your organizational units and removes the property being replaced from a different organizational unit.

§ 101–46.301 What are the sales methods?

(a) You must use the methods, terms, and conditions of sale, and the forms prescribed in § 101–45.304 of this subchapter in the sale of property being replaced, except that the provisions of § 101–45.304–2(a) of this subchapter regarding negotiated sales are not applicable. Section 3709, Revised Statutes (41 U.S.C. 5), specifies the following conditions under which property being replaced can be sold by negotiation, subject to obtaining such competition as is feasible:

(1) The reasonable value involved in the contract does not exceed $500, or

(2) Otherwise authorized by law.

(b) You may sell property being replaced by negotiation at fixed prices in accordance with the provisions of § 101–45.304–2(b) of this subchapter.

§ 101–46.302 What are the accounting requirements for the proceeds of sale?

Except as otherwise authorized by law, you must account for proceeds from sales of personal property disposed of under this part in accordance with the General Accounting Office Policy and Procedures Manual for Guidance of Federal Agencies, Title 7, Fiscal Procedures, Section 5.5D.

Dated: January 27, 1998.

David J. Barram,

Administrator of General Services.

[FR Doc. 98–2583 Filed 2–4–98; 8:45 am]

BILLING CODE 6820–24–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 206

RIN 3067–AC60

Disaster Assistance; Restoration of Damaged Facilities

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency (FEMA) is amending the basis for determining the eligibility of disaster costs associated with State and local repair or replacement standards adopted prior to restoration project approval that change the predisaster construction of a damaged facility. The rule requires that eligible costs associated with State and local repair or replacement standards (building codes, specifications, or standards required for the construction of facilities) be found reasonable and be limited to the standards that are in writing and formally adopted by the State or local government on or before the date of the disaster declaration. This rule staggers the effective dates; the rule will be effective for local standards on January 1, 1999, and for State standards on January 1, 2000.

DATES: This rule is effective March 9, 1998 and is applicable for local governments on January 1, 1999 and for States on January 1, 2000.

FOR FURTHER INFORMATION CONTACT: Melissa M. Howard, Ph.D., Infrastructure Support Division, Federal Emergency Management Agency, room 713, 500 C Street SW., Washington DC 20472 (202) 646–3243.

SUPPLEMENTARY INFORMATION: FEMA has determined that standards, as dealt with in 44 CFR 206.226(b)(3), must be in effect at the time of the disaster and not at the time of project approval. On October 25, 1996, FEMA published a proposed rule in the **Federal Register** at 61 FR 55262 and invited comments for 60 days ending on December 24, 1996.

The regulation proposed that eligible costs associated with State and local repair or replacement standards that change the pre-disaster construction of a facility be limited to the standards that are in place at the time of the disaster declaration date. The term ''standards''

is as defined in 44 CFR 206.221 and includes construction codes, specifications, and standards. The phrase ''in place'' means that standards must be in writing, formally adopted and implemented by the State or local government on or before the date of the disaster declaration. Comments were received from six (6) sources representing State and local governments and a national association.

A frequent general comment was that as a consequence of any disaster, State and local communities learn from the damages that occurred to facilities and begin the process of updating applicable standards. Based upon this conclusion, it was recommended in two comments that FEMA allow applicants to upgrade codes and standards to a set time limit after the declaration date. Three related comments were made that eligibility should remain as stated in 44 CFR 206.226(b)(3). FEMA agrees that post-disaster engineering research and analysis may provide valuable results that may be beneficial to building standards development. However, after thorough review of the statute and related documentation, FEMA concludes that the suggested changes in the comments are not warranted.

Section 406 of the Stafford Act, ''Repair, Restoration, and Replacement of Damaged Facilities,'' authorizes the President to fund the repair, restoration, reconstruction, or replacement of a damaged public facility or private nonprofit facility ''* * * on the basis of the design of the facility as it existed immediately prior to the major disaster and in conformity with current applicable codes, specifications, and standards * * *.'' Under authority delegated by the President to FEMA, FEMA interprets the phrase, ''* * * in conformity with current codes, specifications, and standards * * *'' to mean those standards (i.e., codes, specifications, and standards required for the construction of facilities) that are officially adopted and implemented before the disaster declaration date, not the project approval date. This interpretation also is consistent with earlier documentation.

Two comments were made that the proposed regulation was not consistent with FEMA's National Mitigation Strategy. FEMA does not take that view. FEMA encourages State and local governments to adopt and enforce reasonable standards in an effort to mitigate future losses. However, FEMA believes that the responsibility rests with State and local governments to do so before a disaster occurs. As part of FEMA's National Mitigation Strategy, FEMA believes that the success of the strategy depends on individuals and government at all levels acknowledging their vulnerability and accepting their responsibility for reducing their exposure to risk from disasters. The adoption and enforcement of reasonable standards benefit the local community by mitigating potential damage to its infrastructure and, in turn, reducing the loss of life and property from such events. To minimize damages, standards need to be in effect and enforced at the time of the disaster. The provision of a window for post-disaster enactment will encourage delays in the implementation of safer building practices. FEMA believes strongly that prudent action on the part of the State and local governments will help to reduce the future need for Federal disaster assistance and the administrative burden on all parties of administering that assistance.

One comment concerned the interpretation of State and local building standards that contain ''triggers'' designed to require seismic upgrades for damaged structures. The comment was made in the context that the proposed rule would not resolve the problem of the delays resulting from disagreements over the reasonableness of the standards. The comment highlights the practice of using the concept of ''triggers'' for upgrades in standards. The issue is two-fold—the applicants'' inclusion of very low thresholds that warrant very large repairs and reconstruction, and FEMA's authority to determine the reasonableness of thresholds and standards. FEMA continues to maintain its authority to accept only reasonable claims on recovery funds. The language of the rule has been amended to include this clarification.

One comment was that the proposed rule required that the applicable standard be in place ''prior'' to the disaster declaration date, not ''on or before'' that date as described in the **Federal Register** SUPPLEMENTARY INFORMATION. The language of the regulation has been made consistent.

The comment period provided the opportunity for the general public and governmental entities to respond to the proposed rule. FEMA believes this period was adequate and that no further consultation is needed.

This rule staggers the effective dates for local and State governments. The rule will be effective for local standards on January 1, 1999, and for State standards on January 1, 2000.The rationale for staggered effective dates is to encourage local governments to act promptly to amend their codes and standards, and also to provide ample time for all States, including those that have biennial legislative sessions, to amend applicable State codes and standards in order to be eligible for reimbursement of costs associated with State and local repair or replacement standards that change the pre-disaster construction of a facility.

Until the respective effective dates, current § 202.226(b)(3) will continue to apply, that is: ''(3) Be in writing and formally adopted by the applicant prior to project approval or be a legal Federal or State requirement applicable to the type of restoration.''

National Environmental Policy Act

This proposed rule would be categorically excluded from the preparation of environmental impact statements and environmental assessments as an administrative action in support of normal day-to-day grant activities. No environmental assessment or environmental impact statement has been prepared.

Regulatory Flexibility Act

The Director certifies that this rule is not a major rule under Executive Order 12291, and will not have a significant impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, and is not expected (1) to adversely affect the availability of disaster assistance funding to small entities, (2) to have significant secondary or incidental effects on a substantial number of small entities, nor (3) to create any additional burden on small entities. Construction costs incurred as a result of more stringent standards enacted by the State or local applicant after the date of a disaster declaration will not be eligible for Federal public assistance grant funding.

Paperwork Reduction Act

This rule does not involve any collection of information for the purposes of the Paperwork Reduction Act.

Executive Order 12612, Federalism

In promulgating this rule, FEMA has considered the President's Executive Order 12612 on Federalism. This rule makes no changes in the division of governmental responsibilities between the Federal government and the States. Grant administration procedures in accordance with 44 CFR Part 13, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, remain the same. No Federalism assessment has been prepared.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778, Civil Justice Reform, dated October 25, 1991, 3 CFR, 1991 Comp., p. 359.

Congressional Review of Agency Rulemaking

This final rule has been submitted to the Congress and to the General Accounting Office under the Congressional Review of Agency Rulemaking Act, 5 U.S.C. 801 *et seq.* The rule is not a ''major rule'' within the meaning of that Act. It does not result in nor is it likely to result in an annual effect on the economy of $100,000,000 or more; it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and it will not have ''significant adverse effects'' on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises.

This final rule is exempt (1) from the requirements of the Regulatory Flexibility Act, as certified previously, and (2) from the Paperwork Reduction Act.

This rule is not an unfunded Federal mandate within the meaning of the Unfunded Mandates Reform Act of 1995, Pub. L. 104–4. It does not meet the $100,000,000 threshold of that Act, and any enforceable duties are imposed as a condition of Federal assistance or a duty arising from participation in a voluntary Federal program.

List of Subjects in 44 CFR Part 206

Disaster assistance, Public assistance.

Accordingly, 44 CFR Part 206 is amended as follows:

1. The authority citation for part 206 continues to read as follows:

Authority: The Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.;* Reorganization Plan No. 3 of 1978, 43 FR 41943, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376; E.O. 12148, 44 FR 43239, 3 CFR, 1979 Comp., p. 412; and E.O. 12673, 54 FR 12571, 3 CFR, 1989 Comp., p. 214.

2. Section 206.226(b)(3) is revised to read as follows:

§ 206.226 Restoration of damaged facilities.

* * * * *

(b) * * *

(3)(i) Be found reasonable, in writing, and formally adopted and implemented by the State or local government on or before the disaster declaration date or be a legal Federal requirement applicable to the type of restoration.

(ii) This paragraph (b) applies to local governments on January 1, 1999 and to States on January 1, 2000. Until the respective applicability dates, the standards must be in writing and formally adopted by the applicant prior to project approval or be a legal Federal or State requirement applicable to the type of restoration.

* * * * *

Dated: January 29, 1998.

James L. Witt,

Director.

[FR Doc. 98–2711 Filed 2–4–98; 8:45 am]

BILLING CODE 6718–02–P

Proposed Rules

Federal Register
Vol. 63, No. 24
Thursday, February 5, 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.

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 708a

Mergers or Conversions of Federally-Insured Credit Unions to Non Credit Union Status: NCUA Approval

AGENCY: National Credit Union Administration (NCUA).

ACTION: Proposed rule; extension of comment period.

SUMMARY: On December 4, 1997 (62 FR 64185), the National Credit Union Administration (NCUA) published for public comment a proposed rule regarding disclosure statements for federally-insured credit unions proposing to convert to noncredit union status. The comment period for this proposed rule was to have expired on February 2, 1998. At the request of a trade association and to encourage additional comments, the NCUA Board has decided to extend the comment period on the proposed rule. The extended comment period now expires February 16, 1998.

DATES: The comment period has been extended and now expires February 16, 1998. Comments must be received on or before February 16, 1998.

ADDRESSES: Comments should be directed to Becky Baker, Secretary of the Board. Mail or hand-deliver comments to: National Credit Union Administration Board, 1775 Duke Street, Alexandria, Virginia 22314–3428. Fax comments to (703) 518–6319. E-mail comments to boardmail@ncua.gov. Please send comments by one method only.

FOR FURTHER INFORMATION CONTACT: Mary F. Rupp, Staff Attorney, Division of Operations, Office of General Counsel, at the above address or telephone: (703) 518–6540.

By the National Credit Union Administration Board on January 30, 1998.

Becky Baker,

Secretary to the Board.

[FR Doc. 98–2820 Filed 2–4–98; 8:45 am]

BILLING CODE 7535–01–U

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 708b

Mergers of Federally-Insured Credit Unions; Voluntary Termination or Conversion of Insured Status

AGENCY: National Credit Union Administration (NCUA).

ACTION: Proposed rule; extension of comment period.

SUMMARY: On December 4, 1997 (62 FR 64187), the National Credit Union Administration (NCUA) published for public comment a proposed rule regarding disclosure statements for federally-insured credit unions proposing to convert to nonfederal insurance or to terminate federal insurance. The comment period for this proposed rule was to have expired on February 2, 1998. At the request of a trade association and to encourage additional comments, the NCUA Board has decided to extend the comment period on the proposed rule. The extended comment period now expires February 16, 1998.

ADDRESSES: Comments should be directed to Becky Baker, Secretary of the Board. Mail or hand-deliver comments to: National Credit Union Administration Board, 1775 Duke Street, Alexandria, Virginia 22314–3428. Fax comments to (703) 518–6319. E-mail comments to boardmail@ncua.gov. Please send comments by one method only.

FOR FURTHER INFORMATION CONTACT: Mary F. Rupp, Staff Attorney, Division of Operations, Office of General Counsel, at the above address or telephone: (703) 518–6540.

By the National Credit Union Administration Board on January 30, 1998.

Becky Baker,

Secretary to the Board.

[FR Doc. 98–2816 Filed 2–4–98; 8:45 am]

BILLING CODE 7535–01–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–CE–42–AD]

RIN 2120–AA64

Airworthiness Directives; SOCATA—Groupe AEROSPATIALE Model TBM 700 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to certain SOCATA—Groupe AEROSPATIALE Model TBM 700 airplanes. The proposed action would require modifying the airplane's left-hand (LH) front side lower panel. The proposed AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for France. The actions specified by the proposed AD are intended to prevent interference between the side trim of the LH front side lower panel and the roll control compass on the LH wheel assembly, which, if not corrected, could result in loss of directional control of the airplane.

DATES: Comments must be received on or before March 3, 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–42–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 SOCATA—Groupe AEROSPATIALE, Support Client/Customer Support, Aerodrome Tarbes-Ossun-Lourdes, B P 930, F65009 Tarbes Cedex, France; telephone (33) 62.41.73.00; facsimile (33) 62.41.76.54, or the Product Support Manager, SOCATA—Groupe AEROSPATIALE, North Perry Airport, 7501 Pembroke Road, Pembroke Pines, Florida 33023; telephone (954) 964–6877; facsimile: (954) 964–1668. This

information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Karl Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 1201 Walnut Street, suite 900, Kansas City, Missouri 64106; telephone (816) 426–6934; facsimile (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 97–CE–42–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–42–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, recently notified the FAA that an unsafe condition may exist on certain SOCATA Model TBM 700 airplanes. The DGAC reports that there have been incidents involving interference between the roll control compass on the left-hand (LH) wheel assembly and the LH front side lower trim panel on these airplanes. This condition, if not corrected, could result in loss of directional control of the airplane.

Relevant Service Information

SOCATA has issued Service Bulletin No. SB 70–061–25, dated June 1995, which specifies procedures for checking the trim panel for correct position, performing a preflight inspection, and modifying the LH front side lower panel.

The DGAC classified this service bulletin as mandatory and issued French AD 95–166(B), dated September 13, 1995, in order to assure the continued airworthiness of these airplanes in France.

The FAA's Determination

The SOCATA Model TBM 700 airplane is manufactured in France and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above.

The FAA has examined the findings of the DGAC, reviewed all available information, including the service information referenced above, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in other SOCATA Model TBM 700 airplanes of the same type design registered in the United States, the proposed AD would require modifying the LH front side lower trim panel. The FAA is not proposing that this action require the specified check for correct position of the trim panel or the preflight inspection of the trim panel. Instead, the FAA is proposing that the operators of the airplanes registered in the United States accomplish only the modification portion that is required by the SOCATA service bulletin and the DGAC AD. Accomplishment of the proposed modification would be in accordance with the service bulletin previously referenced.

Cost Impact

The FAA estimates that 40 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 4 hours per airplane to accomplish the proposed action, and that the average labor rate is approximately $60 an hour. Parts cost approximately $15 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $10,200 or $255 per airplane.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

Socata—Groupe Aerospatiale: Docket No. 97–CE–42–AD.

Applicability: Model TBM–700 airplanes, serial numbers 24, 26, 27, 29 to 32, 34, 36 to 106, and all serial numbers equipped with modification MOD 70–019–25, or

supplemental type certificate (STC) SA2786CE, 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 within the next 100 hours time-in-service (TIS) after the effective date of this AD, unless already accomplished.

To prevent interference between the side trim of the left-hand (LH) side lower panel and the roll control compass on the LH wheel assembly, which, if not corrected, could result in loss of directional control of the airplane, accomplish the following:

(a) Modify the LH front side lower panel in accordance with part ''B. MODIFICATION'' of the ACCOMPLISHMENT INSTRUCTIONS section of SOCATA Service Bulletin No. SB70–061–25, dated June, 1995.

(b) The instructions in this AD take precedence over part ''A. CHECK: DURING EACH PREFLIGHT INSPECTION'' of the ACCOMPLISHMENT INSTRUCTIONS section in SOCATA Service Bulletin No. SB70–061–25, dated June, 1995.

(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, Airplane Certification Service, FAA, 1201 Walnut, Suite 900, Kansas City, Missouri 64106. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

Note 2: 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 SOCATA Service Bulletin No. SB 70–061–25, dated June 1995, should be directed to SOCATA—Groupe AEROSPATIALE, Support Client/Customer Support, Aerodrome Tarbes-Ossun-Lourdes, B P 930, F65009 Tarbes Cedex, France; telephone (33) 62.41.73.00; facsimile (33) 62.41.76.54, or the Product Support Manager, SOCATA—Groupe AEROSPATIALE, North Perry Airport, 7501 Pembroke Road, Pembroke Pines, Florida 33023; telephone (954) 964–6877; facsimile: (954) 964–1668. This service information may be examined at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Note 3: The subject of this AD is addressed in the French AD 95–166(B), dated September 13, 1995.

Issued in Kansas City, Missouri, on January 28, 1998.

Terry L. Chasteen,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–2773 Filed 2–4–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–263–AD]

RIN 2120–AA64

Airworthiness Directives; Aerospatiale Model ATR72 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 Aerospatiale Model ATR72 series airplanes. This proposal would require a one-time high frequency eddy current inspection to detect cracking of the lower fuselage structure, and repair, if necessary. This proposal also would require modification of certain fastener holes in the lower fuselage structure. 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 reduced structural integrity of the airplane due to fatigue cracking in the lower fuselage structure.

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–263–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 Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France. 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–263–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–263–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified the FAA that an unsafe condition may exist on certain Aerospatiale Model ATR72 series airplanes. The DGAC advises that the results of full-scale fatigue testing on a Model ATR72 test article revealed that fatigue cracks may develop in the lower

fuselage structure in the area of the side brace fitting near frame 25. Such fatigue cracking, if not detected and corrected in a timely manner, could result in reduced structural integrity of the airplane.

Explanation of Relevant Service Information

Aerospatiale has issued Service Bulletins ATR72–53–1022, Revision 2, dated February 20, 1995; ATR72–53–1034, Revision 1, dated March 28, 1995; and ATR72–53–1053, Revision 1, dated March 28, 1995. These service bulletins describe procedures for a one-time high frequency eddy current inspection to detect cracking of the lower fuselage structure; and modification of certain fastener holes in the lower fuselage structure in the area of the side brace fitting near frame 25 on the left- and right-hand sides. Accomplishment of the actions specified in these service bulletins is intended to adequately address the identified unsafe condition. The DGAC classified these service bulletins as mandatory and issued French airworthiness directive 94–191–022(B), dated August 17, 1994, in order to assure the continued airworthiness of these airplanes in France.

FAA's Conclusions

This airplane model is manufactured in France and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, 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; except that the repair of any crack or oversize hole would be required to be accomplished in accordance with a method approved by the FAA.

Cost Impact

The FAA estimates that 7 airplanes of U.S. registry would be affected by this proposed AD.

Accomplishment of the actions specified in Aerospatiale Service Bulletin ATR72–53–1022 would take approximately 80 work hours per airplane, at an average labor rate of $60 per work hour. Required parts would be provided by the manufacturer at no cost to the operators. Based on these figures, the cost impact on U.S. operators of the actions specified in this service bulletin and proposed by this AD is estimated to be $4,800 per airplane.

Accomplishment of the actions specified in Aerospatiale Service Bulletin ATR72–53–1034 would take approximately 65 work hours per airplane, at an average labor rate of $60 per work hour. Required parts would be provided by the manufacturer at no cost to the operators. Based on these figures, the cost impact on U.S. operators of the actions specified in this service bulletin and proposed by this AD is estimated to be $3,900 per airplane.

Accomplishment of the actions specified in Aerospatiale Service Bulletin ATR72–53–1053 would take approximately 65 work hours per airplane, at an average labor rate of $60 per work hour. Required parts would be provided by the manufacturer at no cost to the operators. Based on these figures, the cost impact on U.S. operators of the actions specified in this service bulletin and proposed by this AD is estimated to be $3,900 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:

Aerospatiale: Docket 97–NM–263–AD.

Applicability: Model ATR72 series airplanes on which Aerospatiale Modification 2879 or Modification 2628 has not been incorporated, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise 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 reduced structural integrity of the airplane due to fatigue cracking in the lower fuselage structure, accomplish the following:

(a) Prior to the accumulation of 17,500 total flight cycles, or within 500 flight cycles after the effective date of this AD, whichever occurs later: Except as provided in paragraph (b) of this AD, perform a one-time high frequency eddy current inspection to detect fatigue cracking around the fastener holes in the lower fuselage structure in the area of the

side brace fitting near frame 25 on the left- and right-hand sides, and modify crack-free fastener holes, as required by paragraph (a)(1) and/or (a)(2) of this AD, as applicable.

(1) For airplanes on which Aerospatiale Modification 2879 has not been installed: Perform the inspection and modification in accordance with Aerospatiale Service Bulletin ATR72–53–1022, Revision 2, dated February 20, 1995.

(2) For airplanes on which Aerospatiale Modification 2628 has not been installed: Perform the inspection and modifications in accordance with Aerospatiale Service Bulletins ATR72–53–1034, Revision 1, and ATR72–53–1053, Revision 1, both dated March 28, 1995.

(b) If any crack or oversize hole is found during the accomplishment of paragraph (a) of this AD, and if any service bulletin listed in paragraph (a) of this AD specifies to contact the manufacturer for an appropriate corrective action: Prior to further flight, repair the discrepancy in accordance with a method approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate.

(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. 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 French airworthiness directive 94–191–022(B), dated August 17, 1994.

Issued in Renton, Washington, on January 29, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–2782 Filed 2–4–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–291–AD]

RIN 2120–AA64

Airworthiness Directives; Saab Model SAAB SF340A and SAAB 340B 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 SF340A and 340B series airplanes. This proposal would require a one-time inspection to detect discrepancies of the flight idle stop override mechanism, and corrective action, if necessary. 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 increased braking distance for landings that require the flight idle stop override, resulting from the combination of failure of the override mechanism and inability of the power levers to be moved below the flight idle position after touchdown.

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–291–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–291–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–291–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 SF340A and SAAB 340B series airplanes. The LFV advises that it has received a report of an incident in which a flight crew, when attempting to use the automatic flight idle stop override that was required during landing, discovered the override knob was stuck in position in the control quadrant. Subsequent inspection of the override knob mechanism revealed that cablewire was stuck in its conduit between the knob and the uplock mechanism. It appeared that the cablewire may have become stuck during modification of the control quadrant for installation of the automatic flight idle stop. Similar sticking may occur on other airplanes

that have been modified in a similar manner. This condition, if not corrected, could result in inability to move the power levers below the flight idle position after touchdown, which could result in increased braking distance.

Explanation of Relevant Service Information

Saab has issued Service Bulletin 340–76–041, dated May 29, 1997, and Revision 01, dated July 2, 1997, which describe procedures for a one-time inspection to detect whether the override knob moves freely without scratching or jamming in the control quadrant. For any discrepant mechanism, this service bulletin describes procedures for replacement of the control quadrant with a new or serviceable control quadrant. The LFV classified this service bulletin as mandatory and issued Swedish airworthiness directive SAD 1–116, dated June 9, 1997, in order to assure the continued airworthiness of these airplanes in Sweden.

FAA's Conclusions

These airplane models are manufactured in Sweden and are 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 256 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $15,360, or $60 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: Docket 97-NM–291-AD.

Applicability: Model SAAB SF340A series airplanes, serial numbers -004 through -159 inclusive; and SAAB 340B series airplanes, serial numbers -160 through -379 inclusive; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent increased braking distance for landings that require the flight idle stop override, resulting from the combination of failure of the override mechanism and inability of the power levers to be moved below the flight idle position after touchdown, accomplish the following:

(a) Within 30 days after the effective date of this AD, perform a one-time inspection of the flight idle stop override mechanism to detect any discrepancy, in accordance with Saab Service Bulletin 340–76–041, dated May 29, 1997, or Revision 01, dated July 2, 1997. If any discrepancy is found, prior to further flight, replace the control quadrant with a new or serviceable control quadrant in accordance with the service bulletin.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

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

Note 3: The subject of this AD is addressed in Swedish airworthiness directive SAD 1–116, dated June 9, 1997.

Issued in Renton, Washington, on January 29, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–2781 Filed 2–4–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–CE–108–AD]

RIN 2120–AA64

Airworthiness Directives; Alexander Schleicher Model ASK–21 Sailplanes

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 Alexander Schleicher Model ASK–21 sailplanes. The proposed action would require removing certain pages from the sailplane flight manual and replacing these pages with new pages having different information regarding spin and stall recovery. The proposed AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Germany. The actions specified by the proposed AD are intended to prevent operators from using inaccurate stall and spin recovery information provided in the sailplane flight manual (SFM), which, if not corrected, could result in the inability to recover from a spin or stall during flight.

DATES: Comments must be received on or before March 3, 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–108—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 Alexander Schleicher, Segelflugzeugbau, 6416 Poppenhausen, Wasserkuppe, Federal Republic of Germany; telephone 49.6658.890 or 49.6658.8920; facsimile: 49.6658.8923 or 49.6658.8940. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. J. Mike Kiesov, Project Officer, Sailplanes/Gliders, Small Airplane Directorate, Aircraft 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–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, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 97—CE–108—AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for the Federal Republic of Germany, recently notified the FAA that an unsafe condition may exist on Alexander Schleicher Model ASK–21 sailplanes. The LBA reports that the manufacturer's flight manual does not accurately document the stall and spin characteristics. The safety of the operator and the sailplane could be at risk when relying on the information contained in the SFM. The inaccuracy of the SFM, if not corrected, could result in the inability of the operator to recover from a stall or spin during flight.

Relevant Service Information

Alexander Schleicher has issued Technical Note No. 23, dated January 29, 1991, which specifies procedures for removing SFM pages 2, 22, 24, 33, and 34, and replacing these pages with new pages of the same numbers, but have a footnote ''TN 23 dated Jan 1991.''

The LBA classified this service bulletin as mandatory and issued AD 91–112 Schleicher, dated June 19, 1991, in order to assure the continued airworthiness of these sailplanes in Germany.

The FAA's Determination

The Alexander Schleicher Model ASK–21 sailplane 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, 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 Alexander Schleicher Model ASK–21 sailplanes of the same type design registered in the United States, the proposed AD would require removing certain pages from the Alexander Schleicher Model ASK–21 SFM, and replacing them with new pages of the same numbers, dated January, 1991. Accomplishment of the proposed SFM change would be in accordance with the Action section of Alexander Schleicher Technical Note No. 23, dated January, 1991.

Cost Impact

The FAA estimates that 30 sailplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 1 workhour per sailplane to accomplish the proposed action, and that the average labor rate is approximately $60 an hour. The SFM pages are provided by the manufacturer at no cost to the owner/operator. Inserting the pages into the SFM may be performed by the owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the

Federal Aviation Regulations (14 CFR 43.7), and must be entered into the aircraft records showing compliance with this AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9). Based on these figures, there is no cost impact of the proposed AD on U.S. owners/operators because the proposed action can be accomplished by the owner/operator.

Proposed Compliance Time

The proposed action, the LBA AD, and the Alexander Schleicher Technical Note No. 23, dated January 29, 1991, differ on the compliance time. The LBA AD and the Technical Note require that the replacement of the SFM pages be accomplished at the next annual inspection.

The FAA is proposing a calendar compliance time instead of the next annual inspection because the service history on the U.S.-registered Schleicher Model ASK–21 sailplane does not warrant a need for immediate compliance, and because each sailplane has a different time for the next annual inspection. The calendar compliance will ensure that all of the sailplanes have changed the flight manual and be aware of the new information at approximately the same time.

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:

Alexander Schleicher: Docket No. 97–CE–108–AD.

Applicability: Model ASK–21 sailplanes, serial numbers 21–001 through 21–205, certificated in any category.

Note 1: This AD applies to each sailplane 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 sailplanes 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 within the next 3 calendar months after the effective date of this AD, unless already accomplished.

To prevent operators from using inaccurate stall and spin recovery information provided in the sailplane flight manual (SFM), which, if not corrected, could result in the inability to recover from a spin or stall during flight, accomplish the following:

(a) Remove pages 2, 22, 24, 33, and 34 from the Alexander Schleicher Model ASK–21 SFM, and replace these pages with new pages of the same numbers that have footnote ''TN 23 dated Jan 1991'', in accordance with Alexander Schleicher ASK 21 Technical Note No. 23, dated January 29, 1991.

(b) Incorporating the SFM revisions, as required by this AD, may be performed by the owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7), and must be entered into the aircraft records showing compliance with this AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9).

(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 sailplane 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, Aircraft Certification Service, 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 2: 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 Alexander Schleicher Technical Note No. 23, dated January 29, 1991, should be directed to Alexander Schleicher, Segelflugzeugbau, 6416 Poppenhausen, Wasserkuppe, Federal Republic of Germany; telephone 49.6658.890 or 49.6658.8920; facsimile: 49.6658.8923 or 49.6658.8940. 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 3: The subject of this AD is addressed in German AD No. 91–112 Schleicher, dated June 19, 1991.

Issued in Kansas City, Missouri, on January 29, 1998.

Terry L. Chasteen,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–2780 Filed 2–4–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910.1035

[Docket No. H–371]

RIN 1218–AB46

Occupational Exposure to Tuberculosis

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Proposed rule; correction notice; announcement of hearings sites and dates.

SUMMARY: With this notice, OSHA is correcting the deadline for the submission of written comments on its proposed standard for occupational exposure to tuberculosis and is announcing the dates and locations of the informal public hearings to be held in Los Angeles, California, and New York City, New York, and Chicago, Illinois.

DATES: Written comments on the proposed standard and Notices of Intent to Appear at the hearings must be postmarked on or before February 17, 1998.

The hearings will begin April 7, 1998, in Washington, D.C.; May 5, 1998, in Los Angeles, CA; May 19, 1998, in New York City, NY; and June 2, 1998, in Chicago, IL, starting at 10:00 a.m. on the first day at each location and at 9:00 a.m. on succeeding days.

ADDRESSES: Comments on the proposed standard, Notices of Intent to Appear at the hearings, testimony, and documentary evidence are to be submitted in quadruplicate to the Docket Officer, Docket No. H–371, Room N–2625, U.S. Department of Labor, 200 Constitution Ave., NW, Washington, DC 20210, telephone (202) 219–7894. Comments of 10 pages or fewer may be transmitted by fax to (202) 219–5046, provided the original and three copies are sent to the Docket Officer thereafter.

The hearing locations are: Washington, D.C., The Frances Perkins Building Auditorium, U.S. Department of Labor, 200 Constitution Avenue, NW; Los Angeles, CA, Los Angeles Convention Center, Room 409 A, 1204 South Figueroa Street; New York City, NY, U.S. Department of Labor, Rooms 831 A and B and 841 C and D, 201 Varick Street; Chicago, IL, State of Illinois Building, Room C–500, 160 North LaSalle Street.

FOR FURTHER INFORMATION CONTACT: Bonnie Friedman, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, Room N–3647, U.S. Department of Labor, 200 Constitution Ave., NW, Washington, DC 20210, Telephone (202) 219–8148, FAX (202) 219–5986.

SUPPLEMENTARY INFORMATION: OSHA's proposed standard on Occupational Exposure to Tuberculosis was published October 17, 1997 (62 FR 54160). On December 12, 1997, OSHA extended the deadlines for written comments, Notices of Intent to Appear, and written testimony and documentary evidence. OSHA also rescheduled the Washington, D.C. informal public hearings and added three additional hearings sites.

In that notice, the deadline for written comments and Notices of Intent to Appear was incorrectly reported; the correct date for this deadline is February 17, 1998. The deadline for submission of written testimony for parties requesting more than 10 minutes at the public hearings or submitting documentary evidence is February 27, 1998.

OSHA also announced in that notice that the Agency would publish the dates and locations of the three additional hearing sites when that information became available. Those dates and locations are as follows: Los Angeles, CA, beginning May 5, 1998, at the Los Angeles Convention Center, Room 409 A, 1204 South Figueroa Street; New York City, NY, beginning May 19, 1998, at the U.S. Department of Labor, Rooms 831 A and B and 841 C and D, 201 Varick Street; Chicago, IL, beginning June 2, 1998, at the State of Illinois Building, Room C–500, 160 North LaSalle Street.

All other information pertaining to the filing of written comments, Notices of Intent to Appear, written testimony and documentary evidence can be found in either the proposed tuberculosis rule (62 FR 54160; at 54283) or the extension notice for the proposal (62 FR 65388).

Authority

This document has been prepared under the direction of Charles N. Jeffress, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, D.C. 20210.

It is issued under section 6(b) of the Occupational Safety Health Act (29 U.S.C. 655), Secretary of Labor's Order 6–96, (62 FR 111) and 29 CFR Part 1911.

Signed at Washington, D.C. on this 2nd day of February, 1998.

Charles N. Jeffress,

Assistant Secretary of Labor.

[FR Doc. 98–2906 Filed 2–3–98; 8:45 am]

BILLING CODE 4510–26–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[FRL–5961–9]

RIN 2060–AH26

Protection of Stratospheric Ozone: Control of Methyl Bromide Emissions Through Use of Tarps

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed determination.

SUMMARY: Through this action EPA is proposing a determination that requiring the use of gas impermeable tarps to control emissions of the pesticide methyl bromide is not appropriate under section 608(a)(2) of the Clean Air Act at this time. This proposed determination is also being issued, pursuant to a consent decree, as a direct final determination in the final rules section of today's **Federal Register**. A detailed discussion of the reasoning for this proposed determination is set forth in the direct final determination and the accompanying study referred to therein. If no adverse comment is timely received, no further action will be taken with respect to this proposal and the direct final determination will become final on the date provided in that action.

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

ADDRESSES: Comments on this proposed determination should be addressed to Public Docket No. A–98–07, U.S. Environmental Protection Agency, OAR Docket and Information Center, Room M–1500, Mail Code 6102, 401 M Street, S.W., Washington, D.C. 20460. The docket may be inspected from 8:00 a.m. until 5:30 p.m., weekdays. The docket phone number is (202) 260–7548, and the fax number is (202) 260–4400. A reasonable fee may be charged for copying docket materials. A second copy of any comments should also be sent to Carol Weisner, U.S. Environmental Protection Agency, Stratospheric Protection Division, 401 M Street, SW, Mail Code 6205J, Washington, DC 20460, if by mail, or at 501 3rd Street, N.W., Washington, DC 20001, if comments are sent by courier delivery.

FOR FURTHER INFORMATION CONTACT: Carol Weisner at (202) 564–9193 or fax (202) 565–2096, U.S. Environmental Protection Agency, Stratospheric Protection Division, 401 M Street, S.W., Mail Code 6205–J, Washington, DC 20460.

SUPPLEMENTARY INFORMATION: If no adverse comment is timely received, no further activity is contemplated in relation to this proposed determination and the direct final determination in the final rules section of today's **Federal Register** will be final and become effective in accordance with the information discussed in that action. If adverse comment is timely received, the direct final determination will be withdrawn and all public comments will be addressed in a subsequent final determination. The Agency will not institute a second comment period on this proposed determination; therefore, any parties interested in commenting should do so during this comment period.

For more detailed information and the rationale supporting this proposed determination, the reader should review the information provided in the direct final determination in the final rules section of today's **Federal Register**.

I. Administrative Requirements

A. Executive Order 12866

Executive Order 12866 (58 FR 51735, October 4, 1993) provides for

interagency review of ''significant regulatory actions.'' It has been determined by the Office of Management and Budget (OMB) and EPA that this action, which is a proposed determination that requiring the control of methyl bromide emissions through the use of tarps is not appropriate, is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to OMB review under the Executive Order.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601–602, requires that Federal agencies, when developing regulations, consider the potential impact of those regulations on small entities. Because this action is a proposed determination that requiring the control of methyl bromide emissions through the use of tarps is not appropriate, the Regulatory Flexibility Act does not apply. By its nature, this action will not have an adverse effect on the regulated community, including small entities.

II. Judicial Review

Because this proposed determination is of nationwide scope and effect, under section 307(b)(1) of the Act, judicial review of this action is available only by the filing of a petition for review in the United States Court of Appeals for the District of Columbia Circuit within sixty days of publication of this action in the **Federal Register**.

List of Subjects in 40 CFR Part 82

Environmental protection, Administrative practice and procedure, Air pollution control, Chemicals, Reporting and recordkeeping requirements, Stratospheric ozone layer.

Dated: January 30, 1998.

Carol M. Browner,

Administrator.

[FR Doc. 98–2873 Filed 2–4–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 144 and 146

[FRL–5962–7]

Additional Stakeholder Meeting on Revisions to the Underground Injection Control Regulations for Class V Injection Wells

AGENCY: Environmental Protection Agency.

ACTION: Announcement of additional stakeholder meeting.

SUMMARY: The Environmental Protection Agency (EPA) will hold a public meeting on February 19, 1998 in San Francisco, CA. The purpose of this meeting is to gather information and collect opinions from parties who will be affected by or are otherwise interested in the Revisions to the Underground Injection Control (UIC) Regulations for Class V Injection Wells. Typically, Class V wells are shallow wells which inject a variety of fluids directly below the land surface. The Class V wells under consideration for new requirements include motor vehicle waste disposal wells, cesspools, and industrial waste disposal wells in ground water-based source water protection areas. EPA will consider the comments and views expressed in these meetings in developing the proposed regulation. EPA encourages the full participation of all stakeholders throughout this process.

DATES: The stakeholder meeting regarding the Revisions to the Underground Injection Control Regulations for Class V Injection Wells will be held on February 19, 1998, 9:30 a.m. to 3:30 p.m. PST in San Francisco, CA.

ADDRESSES: To register for the meeting, please contact the EPA Safe Drinking Water Hotline at 1–800–426–4791, or Jennifer Greenamoyer of EPA's Office of Ground Water and Drinking Water at (202) 260–7829. Participants registering in advance will be mailed a packet of materials before the meeting. Interested parties who cannot attend the meeting in person may participate via conference call and should register with the Safe Drinking Water Hotline. Conference lines will be allocated on the basis of first-reserved, first served. The stakeholder meeting will be held in the following location: Second Floor, Room C, 75 Hawthorne Street, San Francisco, CA.

FOR FURTHER INFORMATION CONTACT: For general information on meeting logistics, please contact the Safe Drinking Water Hotline at 1–800–426–4791. For information on the activities related to this rulemaking, contact: Jennifer Greenamoyer, U.S. EPA at (202) 260–7829.

SUPPLEMENTARY INFORMATION: The Environmental Protection Agency is developing revisions to the Underground Injection Control Regulations for Class V Injection Wells (40 CFR parts 144 and 146) to address the risk posed by Class V injection wells to drinking water supplies. EPA is considering changes to the Class V Underground Injection Control regulations that would add new requirements for relatively high-risk Class V wells in areas near drinking water supplies. Under consideration is a ban on Class V motor vehicle waste disposal wells and large-capacity cesspools located in ground water-based source water protection areas being delineated by States under the 1996 Amendments to the Safe Drinking Water Act. In addition, fluids released in Class V industrial waste disposal wells in ground water-based source water protection areas could be required to meet certain standards of quality.

EPA is considering proposing these new requirements because available information shows that Class V motor vehicle waste disposal wells, cesspools, and industrial waste disposal wells pose a high risk of ground water contamination. Targeting the requirements to those wells near ground water-based drinking water supplies would achieve substantial protection of underground sources of drinking water. The rule addressed in this notification is being developed in response to a January 28, 1997 consent decree with the Sierra Club Legal Defense Fund and has a court deadline of June 18, 1998 for proposal and July 31, 1999 for final.

Cynthia C. Dougherty,

Director, Office of Ground Water and Drinking Water.

[FR Doc. 98–2876 Filed 2–4–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 180 and 186

[OPP–300602; FRL–5743–9]

RIN 2070–AC18

Revocation of Tolerances for Canceled Food Uses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes to revoke the tolerances listed in this document. EPA is proposing to revoke these tolerances because EPA has canceled the food uses associated with them.

DATES: Written comments should be submitted to EPA by April 6, 1998.

ADDRESSES: By mail, submit written comments to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, deliver comments to: Rm. 119,

CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically to: opp-docket@epamail.epa.gov. Follow the instructions under Unit VI. of this document. No Confidential Business Information (CBI) should be submitted through e-mail.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential will be included in the public docket by EPA without prior notice. The public docket is available for public inspection in Rm. 119 at the Virginia address given above, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Jeff Morris, Special Review and Reregistration Division (7508W), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Special Review Branch, Crystal Station #1, 3rd floor, 2800 Crystal Drive, Arlington, VA, Telephone: (703) 308–8029; e-mail: morris.jeffrey@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Legal Authority

The Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 301 *et seq.*, as amended by the Food Quality Protection Act of 1996 (FQPA), Pub. L. 104-170, authorizes the establishment of tolerances (maximum residue levels), exemptions from the requirement of a tolerance, modifications in tolerances, and revocation of tolerances for residues of pesticide chemicals in or on raw agricultural commodities and processed foods pursuant to section 408, 21 U.S.C. 346(a), as amended. Without a tolerance or exemption, food containing pesticide residues is considered to be unsafe and therefore ''adulterated'' under section 402(a) of the FFDCA, and hence may not legally be moved in interstate commerce (21 U.S.C. 331(a) and 342(a)). For a pesticide to be sold and distributed, the pesticide must not only have appropriate tolerances or exemptions under the FFDCA, but also must be registered under section 3 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136a.

Under FFDCA section 408(f), if EPA determines that additional data are needed to support continuation of a tolerance, EPA may require that those data be submitted by registrants under FIFRA section 3(c)(2)(B), by producers under the Toxic Substances Control Act (TSCA) section 4, or by other persons by order after opportunity for hearing. EPA intends to use Data Call-In (DCI) procedures for pesticide registrants, and FFDCA section 408(f)(1)(C) orders for non-registrants as its primary means of obtaining data. In general, EPA does not intend to use the procedures under TSCA section 4, because such procedures generally will not be applicable to pesticides.

Section 408(f) of the FFDCA states that if EPA determines that additional data are needed to support the continuation of an existing tolerance or exemption, EPA shall issue a notice that: (1) Requests that any parties identify their interest in supporting the tolerance or exemption, (2) solicits the submission of data and information from interested parties, (3) describes the data and information needed to retain the tolerance or exemption, (4) outlines how EPA will respond to the submission of supporting data, and (5) provides time frames and deadlines for the submission of such data and information.

II. Regulatory Background

It is EPA's general practice to propose revocation of tolerances for residues of pesticide active ingredients on food uses that EPA has canceled. In accord with FFDCA section 408, however, EPA will not revoke any tolerance or exemption proposed for revocation if any person will commit to support its retention, and if retention of the tolerance will meet the tolerance standard established under FQPA. Generally, interested parties commit to support the retention of such tolerances in order to permit treated commodities to be legally imported into the United States, since raw or processed food or feed commodities containing pesticide residues not covered by a tolerance or exemption are considered to be adulterated and subject to detention and regulatory action.

Tolerances and exemptions established for pesticide chemicals with FIFRA registrations cover residues in or on both domestic and imported commodities. To retain these tolerances and exemptions for import purposes only, EPA must make a finding that the tolerances and exemptions are safe. To make this safety finding, EPA needs data and information indicating that there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide residues covered by the tolerances and exemptions. EPA determines on a case-by-case basis the data required to determine that a tolerance or exemption is safe, and in general requires the same technical chemistry and toxicology data for tolerances without related U.S. registrations as are required to support U.S. food-use registrations and any resulting tolerances or exemptions. (See 40 CFR part 158 for EPA's data requirements to support domestic use of a pesticide and the establishment and maintenance of a tolerance. Also, at a future date EPA will announce its import tolerance policy in a pesticide regulation (PR) notice.) In most cases, EPA also requires residue chemistry data (crop field trials) that are representative of growing conditions in exporting countries in the same manner that EPA requires representative residue chemistry data from different U.S. regions to support domestic use of a pesticide and any resulting tolerance(s) or exemption(s). Good Laboratory Practice (GLP) requirements for studies submitted in support of tolerances and exemptions for import purposes only are the same as for domestic purposes; i.e., the studies are required to either fully meet GLP standards, or have sufficient justification presented to show that deviations from GLP requirements do not significantly affect the results of the studies.

Monitoring and enforcement of pesticide tolerances and exemptions are carried out by the U.S. Food and Drug Administration (FDA) and the U.S. Department of Agriculture (USDA). This includes monitoring for pesticide residues in or on commodities imported into the United States.

III. Proposed Actions

This document proposes to revoke the tolerances listed at the regulatory text of this document. EPA is proposing these revocations because, for specific chemicals, EPA has canceled the food uses covered by the tolerances.

IV. Effective Date

EPA proposes that these actions become effective 30 days following publication in the **Federal Register** of a final rule revoking the tolerances. EPA is proposing this effective date because EPA believes that all existing stocks of pesticide products labeled for the uses associated with the tolerances proposed for revocation have been exhausted.

Any commodities listed in the regulatory text of this document that are treated with the pesticides subject to this proposal, and that are in the channels of trade following the tolerance revocations, shall be subject to

FFDCA section 408(1)(5), as established by FQPA. Under this section, any residue of these pesticides in or on such food shall not render the food adulterated so long as it is shown to the satisfaction of FDA that: (1) The residue is present as the result of an application or use of the pesticide at a time and in a manner that was lawful under FIFRA, and (2) the residue does not exceed the level that was authorized at the time of the application or use to be present on the food under a tolerance or exemption from a tolerance. Evidence to show that food was lawfully treated may include records that verify the dates that the pesticide was applied to such food.

V. Public Comment Procedures

EPA invites interested persons to submit written comments, information, or data in response to this proposed rule. After consideration of comments, EPA will issue a final rule. Such rule will be subject to objections. Failure to file an objection within the appointed period will constitute waiver of the right to raise in future proceedings issues resolved in the final rule.

Comments must be submitted by April 6, 1998. Comments must bear a notation indicating the docket control number ''OPP–300602.'' Three copies of the comments should be submitted to either location listed under ''ADDRESSES'' at the beginning of this document.

This proposal provides 60 days for any interested person to request that a tolerance be retained. If EPA receives a comment to that effect, EPA will not revoke the tolerance, but will take steps to ensure the submission of supporting data and will issue an order in the **Federal Register** under FFDCA section 408(f). The order would specify the data needed, the time frames for its submission, and would require that within 90 days some person or persons notify EPA that they will submit the data. Thereafter, if the data are not submitted as required, EPA will take appropriate action under FIFRA or FFDCA.

VI. 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 ''OPP–300602'' (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 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official rulemaking record is located at the Virginia address in ''ADDRESSES'' at the beginning of this document.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comment and data will also be accepted on disks in Wordperfect 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket control number ''OPP–300602''. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries.

VII. Regulatory Assessment Requirements

This is a proposed revocation of a tolerance established under FFDCA section 408. The Office of Management and Budget (OMB) has exempted this type of action, i.e., a tolerance revocation for which extraordinary circumstances do not exist, from review under Executive Order 12866, entitled Regulatory Planning and Review (58 FR 51735, October 4, 1993). In addition, this proposal does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (P.L. 104-4). Nor does it require any prior consultation as specified by Executive Order 12875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October 28, 1993), special considerations 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 require special 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).

In addition, pursuant to the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency previously assessed whether the revocations of tolerances might significantly impact a substantial number of small entities and concluded that, as a general matter, these actions do not impose a significant economic impact on a substantial number of small entities. The factual basis and the Agency's certification under section 605(b) for tolerance revocations published on December 17, 1997 (62 FR 66020), and was provided to the Chief Counsel for Advocacy of the Small Business Administration. Since no extraordinary circumstances exist as to the present revocation that would change EPA's previous analysis, the Agency is able to reference the general certification. Any comments about the Agency's determination should be submitted to EPA along with comments on the proposal, and will be addressed prior to issuing a final rule.''

List of Subjects

40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

40 CFR Part 186

Environmental protection, Animal feeds, Pesticides and pests.

Dated: January 12, 1998.

Lois Rossi,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR parts 180 and 186 be amended as follows:

PART 180—[AMENDED]

1. In part 180:

a. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

§ 180.103 [Amended]

b. In § 180.103, by amending the table in paragraph (a) by removing the entries for avocados; garlic; leeks; pimentos; shallots; and taro (corn).

§ 180.106 [Amended]

c. In § 180.106, by amending the table in paragraph (a) by removing the entries for Bermuda grass and Bermuda grass hay.

§ 180.108 [Amended]

d. In § 180.108, by amending the table in paragraph (a) by removing the entries for grass hay and grass (pasture and range).

§ 180.110 [Amended]

e. In § 180.110, by amending the table in paragraph (a) by removing the entries for apricots; beans (succulent form); carrots; celery; nectarines; peaches; rhubarb; and spinich.

f. By revising § 180.114 to read as follows:

§ 180.114 Ferbam; tolerances for residues.

(a) *General.* Tolerances are established for residues of the fungicide ferbam (ferric dimethyldithiocarbamate), calculated as zinc ethylenebisdithiocarbamate, in or on the following raw agricultural commodities:

Commodity	Parts per million
Apples	7
Apricots	7
Beans	7
Blackberries	7
Blueberries (huckleberries)	7
Cabbage	7
Cherries	7
Citrus fruits	7
Cranberries	7
Dewberries	7
Grapes	7
Lettuce	7
Loganberries	7
Mangoes	7
Nectarines	7
Peaches	7
Pears	7
Peas	7
Raspberries	7
Squash	7
Youngberries	7

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

g. In § 180.121, by amending paragraph (a) by adding a paragraph heading and designating the text after the heading as paragraph (a)(1) and removing from the table therein the entries for citrus fruits; sugarcane; sugarcane, fodder; and sugarcane, forage; redesignating existing paragraph (b) as (a)(2); and adding and reserving with headings new paragraphs (b), (c), and (d) to read as follows:

§ 180.121 Parathion or its methyl homolog; tolerances for residues.

(a) *General.* (1) * * *

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

h. In § 180.145, by revising paragraph (a)(1) to read as follows:

§ 180.145 Fluorine compounds; tolerances for residues.

(a) *General.* (1) Tolerances are established for the combined residues of the insecticidal fluorine compounds cryolite and synthetic cryolite (sodium aluminum fluoride) in or on the following agricultural commodities:

Commodity	Parts per million
Beets, roots	7
Blueberries (huckleberries)	7
Broccoli	7
Brussels sprouts	7
Cabbage	7
Cauliflower	7
Citrus fruits	7
Cranberries	7
Cucumbers	7
Eggplant	7
Grapes	7
Kohlrabi	7
Lettuce	7
Melons	7
Peaches	7
Peppers	7
Plums (fresh prunes)	7
Pumpkins	7
Radish, roots	7
Raspberries	7
Rutabaga, roots	7
Squash (winter)	7
Squash (summer)	7
Strawberries	7
Tomatoes	7
Turnip, roots	7

* * * * *

§ 180.153 [Amended]

i. In § 180.153, by amending the table in paragraph (a)(1) by removing the entry for bananas.

§ 180.170 [Removed]

j. By removing § 180.170.

§ 180.173 [Amended]

k. In § 180.173, by amending the table in paragraph (a) by removing all entries except those for citrus fruits; milk fat; and the fat, meat, and mbyp entries of cattle, goats, hogs, horses, and sheep.

l. By revising § 180.178 to read as follows:

§ 180.178 Ethoxyquin; tolerances for residues.

(a) *General.* A tolerance is established for residues of the plant regulator ethoxyquin (1,2-dihydro-6-ethoxy-2,2,4-trimethylquinoline) from preharvest or postharvest use in or on the following commodity:

Commodity	Parts per million
Pears	3

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

m. By revising § 180.181 to read as follows:

§ 180.181 CIPC; tolerances for residues.

(a) *General.* A tolerance is established for residues of the plant regulator and herbicide CIPC (isopropyl *m*-chlorocarbanilate) and its metabolite 1-hydroxy-2-propyl-3′-chlorocarbanilate (calculated as CIPC) in or on the following raw agricultural commodity:

Commodity	Parts per million
Potatoes (POST–H)	50

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

§ 180.183 [Amended]

n. In § 180.183, by amending the table in paragraph (a)(1) by removing the entries for alfalfa, fresh; alfalfa, hay; and clover, fresh; and clover, hay.

§ 180.188 [Removed]

o. By removing § 180.188.

§ 180.198 [Removed]

p. By removing § 180.198.

§ 180.200 [Amended]

q. In § 180.200, by revising paragraph (a)(1) to read as follows:

§ 180.200 2,6-Dichloro-4-nitroaniline; tolerances for residues.

(a) *General.* (1) Tolerances are established for residues of the fungicide 2,6-dichloro-4-nitroaniline in or on the following raw agricultural commodities. Unless otherwise specified, these tolerances prescribed in this paragraph provide for residues from preharvest application only.

Commodity	Parts per million
Apricots (pre- and post-H)	20
Beans, snap	20
Carrots (post-H)	10
Celery	15
Cherries, sweet (pre- and post-H)	20

Commodity	Parts per million
Cucumbers	5
Endive (escarole)	10
Garlic	5
Grapes	10
Lettuce	10
Nectarines (pre- and post-H)	20
Onions	5
Peaches (pre- and post-H)	20
Plums (fresh prunes) (pre- and post-H)	15
Potatoes	0.25
Rhubarb	10
Sweet potatoes (post-H)	10
Tomatoes	5

* * * * *

§ 180.206 [Amended]

r. In § 180.206, by amending the table in paragraph (a) by removing the entries for alfalfa, fresh; alfalfa, hay; barley, grain; barley, straw; Bermuda grass, straw; lettuce; rice; and tomatoes.

s. In § 180.207, by designating the existing text as paragraph (a), adding a paragraph heading to the newly designated paragraph (a) and amending the table therein by removing the entries for flax, straw; rape, straw; and Upland cress; and adding and reserving with headings paragraphs (b), (c), and (d) to read as follows:

§ 180.207 Trifluralin; tolerances for residues.

(a) *General.* * * *

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

§ 180.209 [Amended]

t. In § 180.209, by amending the table in paragraph (a)(1) by removing the entry for citrus fruits.

u. In § 180.211, by designating the existing text as paragraph (a), adding a paragraph heading to the newly designated paragraph (a) and amending the table therein by removing the entries for beets, sugar, roots; beets, sugar, tops; corn, forage; corn, grain; corn, sweet (K+CWHR); cottonseed; flax, seed; flax, straw; peas (with pods, determined on peas after removing any pod present when marketed); peas, forage; and pumpkins; and adding and reserving with headings paragraphs (b), (c), and (d) to read as follows:

§ 180.211 2-Chloro-N-isopropylacetanilide; tolerances for residues.

(a) *General.* * * *

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

§ 180.213 [Amended]

v. In § 180.213, by amending the table in paragraph (a)(1) by removing the entries for artichokes, asparagus, and sugarcane.

w. By revising § 180.214 to read as follows:

§ 180.214 Fenthion; tolerances for residues.

(a) *General.* Tolerances are established for residues of the insecticide fenthion (*O,O*-dimethyl *O*-[4-(methylthio)-*m*-tolyl] phosphorothioate) and its cholinesterase-inhibiting metabolites in or on the following raw agricultural commodities:

Commodity	Parts per million
Cattle, fat	0.1
Cattle (mbyp)	0.1
Cattle, meat	0.1
Hogs, fat	0.1
Hogs (mbyp)	0.1
Hogs, meat	0.1
Milk	0.01 (N)
Poultry, fat	0.1
Poultry (mbyp)	0.1
Poultry, meat	0.1

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

x. By revising § 180.215 to read as follows:

§ 180.215 Naled; tolerances for residues.

(a) *General.* (1) Tolerances are established for residues of the insecticide naled (1,2-dibromo-2,2-dichloro-ethyl dimethyl phosphate) and its conversion product 2,2-dichlorovinyl dimethyl phosphate, expressed as naled, resulting from the application of the pesticide to growing crops or from direct application to livestock and poultry, in or on the following raw agricultural commodities:

Commodity	Parts per million
Almonds (hulls)	0.5
Almonds (nuts)	0.5
Beans (dry)	0.5
Beans (succulent)	0.5
Beets, sugar, roots	0.5
Beets, sugar, tops	0.5
Broccoli	1
Brussels sprouts	1
Cabbage	1
Cattle, fat	0.05
Cattle, mbyp	0.05
Cattle, meat	0.05
Cauliflower	1
Celery	3
Collards	3
Cottonseed	0.5
Eggplant	0.5
Eggs	0.05
Goats, fat	0.05
Goats, mbyp	0.05
Goats, meat	0.05
Grapefruit	3
Grapes	0.5
Grasses, forage	10
Hogs, fat	0.05
Hogs, mbyp	0.05
Hogs, meat	0.05
Hops	0.5
Horses, fat	0.05
Horses, mbyp	0.05
Horses, meat	0.05
Kale	3
Lemons	3
Melons	0.5
Milk	0.05
Oranges	3
Peaches	0.5
Peas (succulent)	0.5
Peppers	0.5
Poultry, fat	0.05
Poultry, mbyp	0.05
Poultry, meat	0.05
Safflower, seed	0.5
Sheep, fat	0.05
Sheep, mbyp	0.05
Sheep, meat	0.05
Spinach	3
Squash, summer	0.5
Strawberries	1
Swiss chard	3
Tangerines	3
Walnuts	0.5

(2) A tolerance of 0.5 part per million is established for the pesticide naled in or on all raw agricultural commodities, except those otherwise listed in this section, from use of the pesticide for area pest (mosquito and fly).

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

y. By revising § 180.217 to read as follows:

§ 180.217 Ammoniates for [ethylenebis-(dithiocarbamato)] zinc and ethylenebis [dithiocarbamic acid] bimolecular and trimolecular cyclic anhydrosulfides and disulfides; tolerances for residues.

(a) *General.* Tolerances are established for residues of a fungicide that is a mixture of 5.2 parts by weight of ammoniates of [ethylenebis (dithiocarbamato)] zinc with 1 part by weight ethylenebis [dithiocarbamic acid] bimolecular and trimolecular cyclic anhydrosulfides and disulfides, calculated as zinc ethylenebisdithiocarbamate, in or on the following raw agricultural commodities as follows:

Commodity	Parts per million
Apples	2
Potatoes	0.5

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

z. In § 180.220, by amending paragraph (a) to add a paragraph heading and amending the table therein by removing the entries for pineapples; pineapples, fodder; and pineapples, forage; by removing and reserving with a heading paragraph (b); and adding and reserving with headings parargraphs (c) and (d) to read as follows:

§ 180.220 Atrazine; tolerances for residues

(a) *General.* * * *

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

aa. By revising § 180.222 to read as follows:

§ 180.222 Prometryn; tolerances for residues.

(a) *General.* Tolerances are established for residues of the herbicide prometryn (2,4-bis(isopropylamino)-6-methylthio-*s*-triazine) in or on the following raw agricultural commodities:

Commodity	Parts per million
Celery	0.5
Corn, grain	0.25
Cotton	1
Cottonseed	0.25
Pigeon peas	0.25

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registration.* Tolerances with regional registration, as defined in § 180.1(n), are established for residues of the herbicide prometryn (2,4-bis(isopropylamino-6-methylthio-*s*-triazine) in or on the following raw agricultural commodity:

Commodity	Parts per million
Dill	0.3
Parsley	0.1

(d) *Indirect or inadvertent residues.* [Reserved]

bb. By revising § 180.229 to read as follows:

§ 180.229 Fluometuron; tolerances for residues.

(a) *General.* A tolerance is established for negligible residues of the herbicide fluometuron (1,1-dimethyl-3-(α,α,α-trifluoro-*m*-tolyl)urea) in or on the following raw agricultural commodity:

Commodity	Parts per million
Cottonseed	0.1

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

cc. By revising § 180.231 to read as follows:

§ 180.231 Dichlobenil; tolerances for residues.

(a) *General.* Tolerances are established for the combined negligible residues of the herbicide dichlobenil (2,6-dichlorobenzonitrile) and its metabolite 2,6-dichlorobenzoic acid in or on the following raw agricultural commodities:

Commodity	Parts per million
Almond hulls	0.15
Apples	0.15
Avocados	0.15
Blackberries	0.15
Blueberries	0.15
Citrus	0.15
Cranberries	0.15
Figs	0.15
Grapes	0.15
Mangoes	0.15
Nuts	0.15
Pears	0.15
Raspberries	0.15

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

dd. In § 180.235, by amending paragraph (a) by adding a paragraph heading and designating the text after the heading as paragraph (a)(1), and in the table therein by removing the entries for cucumbers, lettuce, radishes, and tomatoes; redesignating paragraph (b) as paragraph (a)(2); and adding and reserving with headings new paragraphs (b), (c), and (d) to read as follows:

§ 180.235 2,2-Dichlorovinyl dimethyl phosphate; tolerances for residues.

(a) *General.* (1) * * *

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved].

§ 180.242 [Amended]

ee. In § 180.242, by amending the table in paragraph (a)(1) by removing the entry for grapes.

§ 180.254 [Amended]

ff. In § 180.254, by amending the table in paragraph (a) by removing the entries for peanuts and peanuts, hulls.

gg. By revising § 180.258 to read as follows:

§ 180.258 Ametryn; tolerances for residues.

(a) *General.* Tolerances are established for residues of the desiccant and herbicide (2-ethylamino)-4-(isopropylamino)-6-(methylthio)-*s*-triazine in or on the following raw agricultural commodity:

Commodity	Parts per million
Bananas	0.25
Corn, fodder	0.5
Corn, forage	0.5
Corn, fresh (inc. sweet K+CWHR)	0.25
Corn, grain	0.25
Pineapples	0.25
Pineapples, fodder	0.25
Pineapples, forage	0.25
Sugarcane	0.25
Sugarcane, fodder	0.25
Sugarcane, forage	0.25
Taniers	0.25

Commodity	Parts per million
Yams	0.25

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* Tolerances with regional registration, as defined in § l80.1(n), are established for the residues of ametryn in or on the following raw agricultural commodities:

Commodity	Parts per million
Cassava, root	0.1

(d) *Indirect or inadvertent residues.* [Reserved]

hh. In § 180.261, by amending paragraph (a) by adding a new paragraph heading and removing from the table therein the entry for tomatoes; redesignating paragraph (b) as paragraph (c) and adding a new paragraph heading to newly designated (c); and adding and reserving with headings new paragraphs (b) and (d) to read as follows:

§ 180.261 Phosmet; tolerances for residues.

(a) *General.* * * *

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* * * *

(d) *Indirect or inadvertent residues.* [Reserved]

ii. In § 180.262, by amending paragraph (a) by adding a new paragraph heading and removing from the table therein the entries for soybeans; soybeans, forage; and soybeans, hay; redesignating paragraph (b) as paragraph (c) and adding a new paragraph heading to newly designated (c); and adding and reserving with headings new paragraphs (b) and (d) to read as follows:

§ 180.262 Ethoprop; tolerances for residues.

(a) *General.* * * *

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* * * *

(d) *Indirect or inadvertent residues.* [Reserved]

jj. In § 180.294, by amending the table in paragraph (a) by revising the entries for apples; apricots; cherries; nectarines; peaches; pears; and plums (including fresh prunes) to read as follow:

§ 180.294 Benomyl; tolerances for residues.

(a) * * *

Commodity	Parts per million
Apples (PRE-H)	7.0
Apricots (PRE-H)	15.0
* * *	* * *
Cherries (PRE-H)	15.0
* * *	* * *
Nectarines (PRE-H)	15.0
* * *	* * *
Peaches (PRE-H)	15.0
* * *	* * *
Pears (PRE-H)	7.0
* * *	* * *
Plums (fresh prunes) (PRE-H)	15.0
* * *	* * *

* * * * *

§ 180.297 [Amended]

kk. By revising § 180.297 to read as follows:

§ 180.297 N-1-Naphthylphthalamic acid; tolerances for residues.

(a) *General.* Tolerances are established for residues of the herbicide *N*-1-naphthylphthalamic acid from application of its sodium salt in or on the following raw agricultural commodities:

Commodity	Parts per million
Cantaloupe	0.1 (N)
Cucumbers	0.1 (N)
Muskmelons	0.1 (N)
Watermelons	0.1 (N)

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

ll. In § 180.298, by amending paragraph (a) by adding a new paragraph heading and designating the text after the heading as paragraph (a)(1) and removing from the table therein the entries for clover; clover, hay; and potatoes; redesignating paragraph (b) as paragraph (a)(2); adding a paragraph heading to paragraph (c); and adding and reserving with headings new paragraphs (b) and (d) to read as follows:

§ 180.298 Methidathion; tolerances for residues

(a) *General.* (1) * * *

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* * * *

(d) *Indirect or inadvertent residues.* [Reserved]

§ 180.314 [Amended]

mm. In § 180.314, by amending paragraph (a) by removing from the table therein the entries for grass, canary, annual, seed; and grass, canary, annual, straw.

nn. By revising § 180.319 to read as follows:

§ 180.319 Interim tolerances.

While petitions for tolerances for negligible residues are pending and until action is completed on these petitions, interim tolerances are established for residues of the listed pesticide chemicals in or on the following raw agricultural commodities:

Chemical	Use	Tolerance in parts per million	Raw agricultural commodity
Carbaryl (1-naphthyl *N*-methylcarbamate and its metabolite 1-naphthol, calculated as carbaryl.	Insecticide	0.5	Eggs
Coordination product of zinc ion and maneb	Fungicide	1 (Calculated as zinc ethylenebisdithio- carbamate).	Potatoes
Endothall (7-oxabicyclo-(2.2.1) heptane 2, 3-dicarboxylic acid).	Herbicide	0.2	Sugar beets
Isopropyl carbanilate (IPC)	Herbicide	5	Hay of alfalfa, clover, and grass
		2	Alfalfa, clover, and grass

Chemical	Use	Tolerance in parts per million	Raw agricultural commodity
		0.1	Flaxseed, lentils, lettuce, peas, safflower seed, spinach, and sugar beets (roots and tops)
		0.05	Eggs; milk; and the meat fat, and meat by-products of cattle, goats, hogs, horses, poultry, and sheep
Isopropyl *m*-chlorocarbanilate (CIPC)	do	0.3	Spinach
		0.05	Milk; meat, fat, and meat byproducts of cattle, hogs, horses, and sheep
Parathion (*O,O*-diethyl-*O-p*-nitrophenythiophosphate) or its methyl homolog.	do	0.5	Rye
Pentachloronitrobenzene	Fungicide	1	Peanuts
		0.1	Beans, broccoli, brussels sprouts, cabbage, cauliflower, garlic, peppers, potatoes, tomatoes.

§ 180.320 [Removed]

oo. By removing § 180.320.

§ 180.330 [Amended]

pp. In § 180.330, by amending paragraph (a) by removing from the table therein the entries for blackberries; raspberries; peas; peas, forage; peas, hay; and potatoes.

qq. By revising § 180.341 to read as follows:

§ 180.341 2,4-Dinitro-6-octylphenyl crotonate and 2,6-dinitro-4-octylphenyl crotonate; tolerances for residues.

(a) *General.* Tolerances are established for the combined negligible residues of a fungicide and insecticide that is a mixture of 2,4-dinitro-6-octylphenyl crotonate and 2,6-dinitro-4-octylphenyl crotonate in or on the following raw agricultural commodities:

Commodity	Parts per million
Apples	0.1
Grapes	0.1

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

rr. By revising § 180.346 to read as follows:

§ 180.346 Oxadiazon; tolerances for residues.

(a) *General.* Tolerances are established for the combined residues of the herbicide oxadiazon (2-*tert*-butyl-4-(2,4-dichloro-5-isopropoxyphenyl)-$\Delta^2$1,3,4-oxadiazolin-5-one) and its metabolites (2-*tert*-butyl-4-(2,4-dichloro-5-hydroxyphenyl)-$\Delta^2$1,3,-4-oxadiazolin-5-one and 2-carboxyiso- propyl-4-(4-dichloro)-5-isopropoxyphenyl)-Δ^2-1,3,4-oxadiazolin-5-one) in or on the following raw agricultural commodities:

Commodity	Parts per million
Cattle, fat	0.01(N)
Cattle, mbyp	0.01(N)
Cattle, meat	0.01(N)
Goats, fat	0.01(N)
Goats, mbyp	0.01(N)
Goats, meat	0.01(N)
Hogs, fat	0.01(N)
Hogs, mbyp	0.01(N)
Hogs, meat	0.01(N)
Horses, fat	0.01(N)
Horses, mbyp	0.01(N)
Horses, meat	0.01(N)
Milk fat (reflecting negligible residues in milk)	0.1
Rice straw	0.2(N)
Sheep, fat	0.01(N)
Sheep, mbyp	0.01(N)
Sheep, meat	0.01(N)

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

§ 180.349 [Amended]

ss. In § 180.349, by amending paragraph (a) by adding a new paragraph heading and designating the text after the heading as paragraph (a)(1) and removing from the table therein the entries for cocoa beans and soybeans; redesignating paragraph (b) as paragraph (a)(2); adding a new paragraph heading to paragraph (c); and adding and reserving with headings new paragraphs (b) and (d) to read as follows:

§ 180.349 Ethyl 3-methyl-4-(methylthio)phenyl (1-methylethyl) phosphoramidate; tolerances for residues.

(a) *General.* (1) * * *

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* * * *

(d) *Indirect or inadvertent residues.* [Reserved]

tt. In § 180.350, by amending paragraph (a) by adding a paragraph heading and removing from the table therein the entry for cottonseed; removing the existing text under paragraph (b) then reserving with a heading paragraph (b); and adding and reserving with headings paragraphs (c) and (d) to read as follows:

§ 180.350 Nitrapyrin; tolerances for residues.

(a) *General.* * * *

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

§§ 180.358 and 180.366 [Removed]

uu. By removing §§ 180.358 and 180.366.

vv. By revising § 180.370 to read as follows:

§ 180.370 5-Ethoxy-3-(trichloromethyl)-1,2,4-thiadiazole; tolerances for residues.

(a) *General.* Tolerances are established for residues of the fungicide 5-ethoxy-3-(trichloromethyl)-1,2,4-thiadiazole and its monoacid metabolite 3-carboxy-5-ethoxy-1,2,4-thiadiazole in or on the following raw agricultural commodities:

Commodity	Parts per million
Cattle, fat	.10
Cattle, mbyp	.10
Cattle, meat	.10
Corn, field, grain	.05
Corn, fodder	.10
Corn, forage	.10
Cottonseed	.20
Eggs	.05
Goats, fat	.10
Goats, mbyp	.10
Goats, meat	.10
Hogs, fat	.10
Hogs, mbyp	.10
Hogs, meat	.10
Horses, fat	.10
Horses, mbyp	.10
Horses, meat	.10
Milk	.05
Poultry, fat	.10
Poultry, mbyp	.10
Poultry, meat	.10
Sheep, fat	.10
Sheep, mbyp	.10
Sheep, meat	.10
Tomatoes	.15
Wheat, forage	.10
Wheat, grain	.05
Wheat, straw	.10

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

§ 180.374 [Removed]

ww. By removing § 180.374.

xx. By revising § 180.385 to read as follows:

§ 180.385 Diclofop-methyl; tolerances for residues.

(a) *General.* Tolerances are established for the combined residues of the herbicide diclofop-methyl (methyl 2-[4-(2,4-dichlorophenoxy)phenoxy]propanoate) and its metabolites, 2-[4-(2,4-dichlorophenoxy)phenoxy]propanoic acid and 2-[4-(2,4-dichloro-5-hydroxyphenoxy)phenoxy]propanoic acid, in or on the following raw agricultural commodities:

Commodity	Parts per million
Barley, grain	0.1
Barley, straw	0.1
Wheat, grain	0.1
Wheat, straw	0.1

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

§§ 180.386 and 180.387 [Removed]

yy. By removing §§ 180.386 and 180.387.

§ 180.410 [Amended]

zz. In § 180.410, by amending paragraph (a) in the table therein by removing the entries for almonds; almond, hulls; apricots; peaches; and plums (fresh prunes).

§ 180.416 [Amended]

aaa. In § 180.416, by revising paragraph (a) to read as follows:

§ 180.416 Ethalfluralin; tolerances for residues.

(a) *General.* Tolerances are established for residues of the herbicide ethalfluralin [*N*-ethyl-*N*-(2-methyl-2-propenyl)-2,6-dinitro-4-(trifluoromethyl)benzenamine] in or on the following raw agricultural commodities:

Commodity	Parts per million
Beans, dry	0.05
Cucurbits vegetable group	0.05
Goats, fat	0.05
Goats, mbyp	0.05
Goats, meat	0.05
Peanuts	0.05
Peas, dry	0.05
Soy beans	0.05
Sunflower seed	0.05

* * * * *

PART 186—[AMENDED]

2. In part 186:

a. The authority citation for part 186 continues to read as follows:

Authority: 21 U.S.C. 342, 348, and 371.

§ 186.2325 [Removed]

b. By removing § 186.2325.

§ 186.3000 [Removed]

c. By removing § 186.3000.

[FR Doc. 98–2722 Filed 2–4–98; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 799

[OPPTS–42187M; FRL–5769–3]

RIN 2070–AC76

Amended Proposed Test Rule for Hazardous Air Pollutants; Extension of Comment Period; Clarification

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of comment period on amended proposed rule; extension of deadline for receipt of alternative testing proposals; clarification.

SUMMARY: EPA is extending the public comment period from February 9, 1998 to May 11, 1998, on the proposed rule published in the **Federal Register** of June 26, 1996 (61 FR 33178) (FRL–4869–1), amended December 24, 1997 (62 FR 67466) (FRL–5742–2), requiring the testing of certain hazardous air pollutants (HAPs) for specific health effects. EPA is also extending the deadline for the receipt of proposals for enforceable consent agreements (ECAs) for HAPs test rule chemicals for which proposals for ECAs have not been received from February 9, 1998 to March 11, 1998. In addition, EPA is clarifying Unit III.C. ''Persons Required to Test'' of the amended proposed HAPs preamble and the corresponding proposed regulatory text of the amendment to indicate those persons who would be required to initially comply with the HAPs rule.

DATES: Written comments on the proposed rule, as amended, must be received by EPA on or before May 11, 1998. ECA proposals to provide alternative testing to meet HAPs testing requirements must be received by EPA on or before March 11, 1998.

ADDRESSES: Submit three copies of written comments on the proposed HAPs test rule, as amended, identified by docket control number (OPPTS–42187A; FRL–4869–1) to: U.S. Environmental Protection Agency, Office of Pollution Prevention and Toxics (OPPT), Document Control Office (7407), Rm. G–099, 401 M St., SW., Washington, DC 20460. The Document Control Office telephone number is (202) 260–7093.

Submit three copies of ECA proposals to: U.S. Environmental Protection Agency, Office of Pollution Prevention and Toxics, Document Control Office (7407), Room G–099, 401 M St., SW., Washington, DC 20460. The Document Control Office telephone number is

(202) 260–7093. ECA proposals should be labeled: ''ECA Proposal for (HAP chemical name) to Provide Alternative Testing to Meet HAPs Rule Testing Requirements,'' identified by Document Control Number (OPPTS–42187B; FRL–5742–2).

Comments and data may also be submitted electronically to oppt.ncic@epamail.epa.gov. Follow the instructions under Unit III. of this document. No confidential business information (CBI) should be submitted through electronic mail.

FOR FURTHER INFORMATION CONTACT: For additional information: Susan B. Hazen, Director, Environmental Assistance Division (7408), Rm. ET–543B, Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone (202) 554–1404; TDD: (202) 554–0551; e-mail: TSCA–Hotline@epamail.epa.gov. For technical information contact: Richard W. Leukroth, Jr., Project Manager, Chemical Control Division (7405), Office of Pollution Prevention and Toxics, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone: (202) 260–0321; fax: (202) 260–1096; e-mail: leukroth.rich@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Electronic Availability

Internet

Electronic copies of this document and various support documents are available from the EPA Home Page at the **Federal Register** — Environmental Documents entry for this document under ''Laws and Regulations'' (http://www.epa.gov/fedrgstr/ EPA–TOX/1998/).

Fax-On-Demand

Using a faxphone call 202–401–0527 and select item 4640 for an index of available material and corresponding item numbers related to this document.

II. Background

On June 26, 1996 (61 FR 33178), EPA proposed health effects testing, under section 4(a) of TSCA, of the following hazardous air pollutants (HAPs): 1,1'-biphenyl, carbonyl sulfide, chlorine, chlorobenzene, chloroprene, cresols (3 isomers: *ortho-*, *meta-*, *para-*), diethanolamine, ethylbenzene, ethylene dichloride, ethylene glycol, hydrochloric acid, hydrogen fluoride, maleic anhydride, methyl isobutyl ketone, methyl methacrylate, naphthalene, phenol, phthalic anhydride, 1,2,4-trichlorobenzene, 1,1,2-trichloroethane, and vinylidene chloride. EPA would use the data generated under the rule to implement several provisions of section 112 of the Clean Air Act and to meet other EPA data needs and those of other Federal agencies (the Agency for Toxic Substances and Disease Registry (ATSDR), the National Institute for Occupational Safety and Health (NIOSH), the Occupational Safety and Health Administration (OSHA), and the Consumer Product Safety Commission (CPSC)).

On October 18, 1996, EPA extended the public comment period on the proposed rule from December 23, 1996, to January 31, 1997 (61 FR 54383) (FRL–5571–3). This extension was for the purpose of allowing more time for the submission of proposals for pharmacokinetics (PK) studies and adequate time for comments on the proposed rule to be submitted after the Agency had responded to the proposals. Due to the complexity of the issues raised by the eight proposals for PK studies that the Agency received in response to the HAPs proposal, EPA successively extended the public comment period (61 FR 67516, December 23, 1996 (FRL–5580–6); 62 FR 9142, February 28, 1997 (FRL–5592–1); 62 FR 14850, March 28, 1997 (FRL–5598–4); 62 FR 29318, May 30, 1997 (FRL–5722–1); 62 FR 37833, July 15, 1997 (FRL–5732–2) to allow the Agency more time to respond to the PK proposals and to finalize the test guidelines to be referenced in the proposed HAPs test rule. EPA extended the comment period again (62 FR 50546, September 26, 1997 (FRL–5748–8) and 62 FR 63299, November 28, 1997 (FRL–5759–2)) to allow the Agency more time to complete work on amending the proposed HAPs test rule.

On December 24, 1997 (62 FR 67466) (FRL–5742–2) EPA amended the proposed test rule to cross-reference new TSCA test guidelines (codified at 40 CFR part 799, subpart H), remove the testing requirements for phenol, specify export notification requirements, revise the economic assessment, include additional support documents in the rulemaking record, and describe other changes and clarifications to the proposed test rule. In addition, the amendment invited ECA proposals for all of the HAPs chemicals for which ECA proposals had not been received to provide for alternative testing to meet the requirements contained in the amended HAPs proposal.

In the proposed HAPs rule, EPA invited the submission of proposals for pharmacokinetics (PK) studies for the HAPs chemicals, which could provide the basis for negotiation of enforceable consent agreements (ECAs). These PK studies would be used to conduct route-to-route extrapolation of toxicity data from routes other than inhalation to predict the effects of inhalation exposure, as an alternative to testing proposed under the HAPs rule. The Agency received PK proposals for eight HAPs chemicals: diethanolamine (CAS No. 111–42–2), ethylene dichloride (CAS No. 107–06–2), ethylene glycol (CAS No. 107–21–1), hydrogen fluoride (CAS No. 7664–39–3), maleic anhydride (CAS No. 108–31–6), phthalic anhydride (CAS No. 85–44–9), 1,2,4-trichlorobenzene (CAS No. 120–82–1), and 1,1,2-trichloroethane (CAS No. 79–00–5). By notice in the **Federal Register**, EPA announced the date for a meeting to conduct ECA negotiations on seven of these chemicals (diethanolamine (63 FR 3109, January 21, 1998) (FRL–5766–7); ethylene glycol (63 FR 3111, January 21, 1998) (FRL–5766–6); phthalic anhydride (63 FR 1469, January 9, 1998) (FRL–5765–3) ; hydrogen fluoride (63 FR 1467, January 9, 1998) (FRL–5765–5); maleic anhydride (63 FR 1464, January 9, 1998) (FRL–5765–1); 1,1,2-trichloroethane (62 FR 66628, December 19, 1997) (FRL–5763–2); and ethylene dichloride (62 FR 66626, December 19, 1997) (FRL–5763–1)). Negotiating meetings on 1,1,2-trichloroethane and ethylene dichloride were held on January 12, 1998. The PK ECA negotiations will proceed on a separate but parallel track from the HAPs rulemaking process. EPA urges all persons participating in ECA negotiations to comment on the amended proposed HAPs rule as an activity separate from the PK proposal/ECA process.

EPA has received requests for additional time to respond to the amended HAPs proposal (see documents referenced in Unit III. of this document). These requestors state that they would be unable to give full consideration of, or respond appropriately to, Unit III. C., '' Persons Required to Test'' (62 FR 67466, 67469–67472) of the amended HAPs proposal before the current close of the comment period. These persons assert that the Agency's proposed changes, that modify criteria for determining persons who would be subject to the HAPs test rule and when they would have to comply with the rule, form a new policy that results in the need to adjust the composition of groups or alliances previously formed to address testing under the HAPs proposal. Furthermore, these persons indicate that changes in the composition of testing alliances may result in the need to assess whether

comments and positions developed previously in this rulemaking process should be revised.

The Agency maintains that the proposed changes made in the ''Persons Required to Test'' section of the amended HAPs proposal would provide an equitable means to determine which entities would be responsible for testing HAPs chemicals. The amended proposal distinguished those persons who, although subject to the rule, would not be required to comply with the rule unless directed to do so by EPA in a subsequent notice if no manufacturer has submitted a notice of its intent to conduct testing from those persons who would be required to comply with the requirements of the rule when promulgated (''initially comply'').

It has been brought to the attention of the Agency that the language (in both the preamble and the regulatory text) used to determine what persons would be subject to the HAPs test rule and when they would have to comply with the rule is ambiguous. The Agency is therefore clarifying who would be required to initially comply with the HAPs rule with regard to a particular HAP chemical, namely, any person who has, during the last complete corporate fiscal year prior to the publication of the final rule in the **Federal Register**, manufactured (including imported) the HAP chemical at any facility in an amount equal to or in excess of 25,000 lb (regardless of the form of the HAP chemical, i.e., as a Class 1 substance, as a component of a mixture, as a byproduct, as an impurity, as a component of a Class 2 substance, or as an isolated intermediate). The amount of a HAP chemical that is manufactured (including imported) as a component of a chemical substance or mixture at a concentration of less than one percent by weight is not to be taken into account in determining whether the 25,000 lb threshold has been met. (''Naturally occurring substances,'' as described at 40 CFR 710.4(b), and non-isolated intermediates, as defined at 40 CFR 704.3, are not to be considered in determining whether a person is responsible for HAP chemical testing.)

EPA requests that comments on the amended proposal be submitted with this clarification in mind. Regulatory text which would be more clear than that in the amended proposal might, rather than including both paragraphs (iv) and (v) in § 799.5053(a)(2) as published in the amended proposal, include a single paragraph, § 799.5053(a)(2)(iv), that might read as follows:

(iv) Manufacturers (including importers) of a chemical substance specified in Table 1 who, during the last complete corporate fiscal year prior to the effective date specified in Table 1, at no facility manufactured such substance in an amount equal to or in excess of 25,000 lb must comply with the requirements of the rule with regard to such substance only if directed to do so by EPA in a subsequent notice because no manufacturer has submitted a notice of its intent to conduct testing. A chemical substance specified in Table 1 that is manufactured (including imported) as a component of another chemical substance or mixture in which the proportion of the substance specified in Table 1 is less than one percent by weight is not to be taken into account in determining whether the 25,000 lb threshold specified in this paragraph has been met.

EPA acknowledges that some additional time may be required for members of the public to give full consideration to the changes in the amended HAPs proposal and the clarification contained in this document, to adjust existing testing alliances, and to seek additional members of groups or alliances to conduct testing. However, the Agency does not believe that changes to existing testing alliances would likely result in the need to make new comments regarding the testing requirements in the amended proposal because these requirements have not changed substantially from those originally proposed. The Agency emphasizes that the data called for under the amended HAPs proposal are needed to meet requirements under section 112 of the Clean Air Act, and that these data are also needed for other government organizations (ATSDR, NIOSH, OSHA, CPSC) to meet the needs of their programs. With this general understanding, EPA has weighed these requests to extend the comment period with the need to move forward with testing of these HAPs chemicals and agrees to extend the comment period until May 11, 1998.

In the December 24, 1997 amended HAPs proposal, EPA invited the submission of proposals for ECAs on all the HAPs chemicals for which ECA proposals have not been received. The Agency indicated that such proposals must clearly describe the rationale for proposing an alternative testing program, detail the full extent of the testing to be performed under the proposal, and describe how the proposed testing would meet the testing requirements contained in the amended HAPs proposal. EPA will review proposal submissions and may select candidates for ECA negotiations based on the ability of the proposal to fulfill the data requirements that are set forth in the amended HAPs proposal. If the Agency decides to proceed with the ECA process, it will publish a notice in the **Federal Register** soliciting persons interested in participating in or monitoring negotiations for the development of ECAs to notify the Agency in writing. EPA will seek to complete the development of any ECAs expeditiously, and, whenever possible, will work to complete such agreements within 12 months from the date of the Agency's acceptance of the proposal. The deadline for the receipt of alternative testing ECA proposals is being extended from February 9, 1998 to March 11, 1998.

III. Public Record and Electronic Submissions

The official record for this rulemaking, including the public version, which does not include any information claimed as CBI, has been established for this rulemaking under document control number (OPPTS–42187A; FRL–4869–1). This docket also includes all material and submissions filed under docket number OPPTS–42193 (FRL–5719–5), the record for the rulemaking for the TSCA test guidelines, and all material and submissions filed under docket number OPPTS–42187B (FRL–4869–1), the record for the receipt of proposals for developing ECAs for alternative testing of HAPs chemicals. This record contains the basic information considered by EPA in developing this proposed rule, as amended, and appropriate **Federal Register** documents. The public version of this record, including printed, paper versions of electronic comments, is available for inspection from 12 noon to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in the TSCA Nonconfidential Information Center, Rm. NE–B607, 401 M St., SW., Washington, DC 20460.

Electronic comments can be sent directly to EPA at:

oppt.ncic@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect 5.1/6.1 file format or ASCII file format. All comments and data in electronic form must be identified by document control number (OPPTS–42187A; FRL–4869–1). Electronic comments on this proposed rule, as amended, may be filed online at many Federal Depository Libraries.

All comments which contain information claimed as CBI must be clearly marked as such. Three sanitized copies of any comments containing information claimed as CBI must also be submitted and will be placed in the public record for this rulemaking. Persons submitting information any portion of which they believe is entitled to treatment as CBI by EPA must assert a business confidentiality claim in accordance with 40 CFR 2.203(b) for each such portion. This claim must be made at the time that the information is submitted to EPA. If a submitter does not assert a confidentiality claim at the time of submission, EPA will make the information available to the public without further notice to the submitter. No CBI should be submitted electronically.

In addition to the documents listed in Unit X. of the original HAPs proposal and Unit V. of the amended HAPs proposal, the record includes the following additional referenced documents:

1. Letter from M. L. Mullins, Chemical Manufacturers Association to Charles M. Auer, EPA, January 5, 1998.

2. Letter from John F. Murray, Biphenyl Work Group to Charles M. Auer, EPA, January 8, 1998.

3. Contact report from Richard W. Leukroth and Frank Kover, EPA, of phone conversation with W. McLeod, American Petroleum Institute, January 14, 1998.

4. Letter from A. Crane, North American Insulation Manufacturers Association to C. Auer, EPA, January 9, 1998.

5. Letter from J. Rucker, American Petroleum Institute to C. Auer, EPA, January 15, 1998.

List of Subjects in 40 CFR Part 799

Environmental protection, Chemicals, Hazardous substances, Reporting and record keeping requirements.

Dated: January 30, 1998.

Ward Penberthy,

Acting Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

Accordingly, EPA is extending the comment period on the proposed rule to May 11, 1998. EPA is also extending the period for the receipt of ECA proposals to provide alternative testing to meet HAPs testing requirements to March 11, 1998.

[FR Doc. 98–2877 Filed 2–4–98; 8:45 am]

BILLING CODE 6560–50–F

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 193

[Docket No. RSPA–97–3002; Notice 1]

Pipeline Safety: Incorporation of Standard NFPA 59A in the Liquefied Natural Gas Regulations

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice of public meeting.

SUMMARY: RSPA invites representatives of liquefied natural gas (LNG) industry, state and local government, and the public to an open meeting on proposed changes to the LNG regulations. RSPA is drafting amendments to the LNG regulations by replacing substantive provisions of Part 193 of title 49 of the Code of Federal Regulations (CFR) by incorporation by reference of the National Fire Protection Association (NFPA) Standard 59A (1996 edition)—Standard for the Production, Storage and Handling of Liquefied Natural Gas (LNG). The proposed changes are intended to enable operators to utilize current technology, materials, and practices, thereby reducing costs and enhancing economic growth. We believe these changes will eliminate unnecessary or burdensome requirements. The purpose of this meeting is to gather information on experiences with the current Federal LNG safety regulations, and with the NFPA 59A standards, and to solicit comments and suggestions. RSPA hopes to publish the NPRM in the **Federal Register** for public evaluation and comment by July 1998.

DATES: The public meeting will be held on March 31, 1998, from 9.00 a.m. to 12 p.m. Interested persons are invited to attend the meeting and present oral or written Comments on this subject.

ADDRESSES: The public meeting will be held at the Radisson Airport Hotel, 2081 Post Road, Providence, Rhode Island 028860. Hotel phone number is (401) 739–3000.

COMMENTS: Written comments on the subject of this notice may be submitted by May 15, 1998, to the Dockets Facility, U.S. Department of Transportation, 400 Seventh Street, SW, Plaza 401, Washington, DC 20590–0001. Comments should identify the docket number of this notice. Persons should submit the original and one copy. Persons wishing to receive confirmation of receipt of their comments must include a stamped, self-addressed postcard. Alternatively, comments may be submitted via e-mail to ''ops.comments@rspa.dot.gov''. The Dockets facility is open from 10:00 a.m. to 5:00 p.m., Monday through Friday, except on Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mike Israni, (202) 366–4571, or e-mail: mike.israni@rspa.dot.gov, regarding the subject matter of this notice.

Issued in Washington, D. C. on February 2, 1998.

Richard B. Felder,

Associate Administrator for Pipeline Safety.

[FR Doc. 98–2897 Filed 2–4–98; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 195

[Docket No. PS–144; Notice 2]

[RIN 2137–AC 78]

Risk-Based Alternative To Pressure Testing Older Hazardous Liquid and Carbon Dioxide Pipelines Rule

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This notice proposes to allow operators of older hazardous liquid and carbon dioxide pipelines to elect a risk-based alternative in lieu of the existing rule. The existing rule requires the hydrostatic pressure testing of certain older pipelines. The risk-based alternative would allow operators to elect an approach to evaluating the integrity of these lines that takes into account individual risk factors. This would allow operators to focus resources on higher risk pipelines and effect a greater reduction in the overall risk from pipeline accidents.

DATES: Interested persons are invited to submit comments on this notice of proposed rulemaking (NPRM) by April 6, 1998. Late filed comments will be considered to the extent practicable.

ADDRESSES: Written comments must be submitted in duplicate and mailed or hand-delivered to the Dockets Unit, Room 8421, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590–0001. Identify the docket and notice number stated in the heading of this notice. Comments will become part of this docket and will be available for inspection or copying in Room 8421 between 8:30 a.m. and 5 p.m. each business day.

FOR FURTHER INFORMATION CONTACT: Mike Israni, (202) 366–4571, regarding the subject matter of this proposed rule, or Dockets Unit (202) 366–4453, for copies of this final rule document or other material in the docket.

SUPPLEMENTARY INFORMATION:

I. Background

On June 7, 1994, RSPA published a final rule, ''Pressure Testing Older Hazardous Liquid and Carbon Dioxide Pipelines,'' (Amdt. 195–51; 59 FR 29379) to ensure that certain older pipelines have an adequate safety margin between their maximum operating pressure and test pressure. This safety margin is to be provided by pressure testing according to part 195 standards or operation at 80 percent or less of a qualified prior test or operating pressure. The pipelines covered by the rule are steel interstate pipelines constructed before January 8, 1971, steel interstate offshore gathering lines constructed before August 1, 1977, or steel intrastate pipelines constructed before October 21, 1985, that transport hazardous liquids subject to part 195. Also covered are steel carbon dioxide pipelines constructed before July 12, 1991, subject to part 195.

On June 23, 1995, the American Petroleum Institute (API) filed a petition on behalf of many liquid pipeline operators that proposed a risk-based alternative to the required pressure testing rule. API indicated that its proposal would allow operators to focus resources on higher risk pipelines and to effect a greater reduction in the overall risk from pipeline accidents.

In order to determine whether the API proposal had merit, RSPA held a public meeting on March 25, 1996. On May 8 and November 7, 1996, and on May 17, 1997, RSPA briefed the Technical Hazardous Liquid Pipeline Safety Standards Committee (THLPSSC) on the API proposal and steps taken by RSPA to develop a proposed rule. As discussed in more detail below, RSPA finds considerable merit in a risk-based approach to pressure testing of older hazardous liquid pipelines. It provides accelerated testing of electric resistance welded (ERW) pipe, incorporates the use of new technology, and provides for continuing internal inspection of older pipelines through a pigging program. RSPA has been working actively with the pipeline industry to develop a risk management framework for pipeline regulations. The API proposal is consistent with the risk assessment and management approach to safety. The API proposal provides an opportunity to pilot a risk-based approach in a rulemaking forum. Accordingly, this notice of proposed rulemaking proposes a risk-based alternative to the pressure testing rule that has been modeled after the API proposal.

RSPA has extended time for compliance with the pressure testing rule in order to allow completion of this rulemaking on a risk-based alternative. The deadline for complying with § 195.302 (c)(1) is extended to December 7, 1998. The deadline for complying with § 195.302(c)(2)(i) is extended to December 7, 2000. The deadline for complying with § 195.302(c)(2)(ii) is extended to December 7, 2003. [62 FR 54591; October 21, 1997].

RSPA seeks comment and information on how to measure the performance of this risk-based alternative to determine effectiveness, particularly in comparison with the pressure test rule.

II. Major features of risk-based alternative

The proposed risk-based alternative to the rule requiring the pressure testing of older pipelines has six main features:

1. Highest Priority is Given to the Highest Risk Facilities; Lowest Risk Facilities are Excepted From Additional Measures

Pre-1970 electric resistance welded (ERW) and lapweld pipelines susceptible to longitudinal seam failures exhibit the highest potential risk because of their combination of probability of failure and potential for larger volume releases as evidenced by historical records. Pressure testing is the only available technology for verifying the integrity of pre-1970 ERW and lapweld pipelines, because it can detect the type of seam failures endemic to some ERW and all lapweld pipe. This risk-based alternative requires accelerated testing of pre-1970 ERW and lapweld pipe susceptible to longitudinal seam failure in certain locations (risk classification C and B) where people might be significantly affected. However, in rural areas (risk classification A), where consequences to the public are less significant, the risk-based alternative allows delayed testing for pre-1970 ERW and lapweld pipe susceptible to longitudinal failure and allows the operator to determine the need for pressure testing of other types of pipe.

2. Consequence Factors Such as Location, Product Type, and Release Potential are Taken Into Consideration When Setting Testing Priorities

This risk-based alternative takes into account the most significant variables that may impact the severity of a release, i.e., location with respect to populated areas, the nature of the product transported, and the potential volume of product release. Historically, a very small percentage of releases adversely impacted public safety. By taking these potential consequences into consideration in the timing of tests, an operator's resources will be more effectively applied to reduce risks.

3. Best Available Technology is Applied To Verify Pipeline Integrity

The risk-based alternative encourages the use of the most effective means to ensure pipeline integrity. This proposal utilizes the strength of two primary technologies—pressure testing and magnetic flux leakage/ultrasonic internal inspection devices. Each technology provides testing advantages in particular circumstances. This proposal allows the operator to evaluate the pipeline risk considerations and to choose the most appropriate technology.

4. Timing of Tests is Based on Risk

Considering the probability and consequence factors, the risk-based concept increases the priority of a limited amount of pre-1970 ERW and all lapweld pipelines and maintains the three-year timing for risk classification B and C lines which represent the highest risk to people. Pipelines with lower risks (risk classification A) are allowed a longer testing schedule or are eliminated (non high risk pre-1970 ERW pipelines) from a mandatory testing requirement. Nothing in this proposed alternative precludes an operator from accelerating these schedules based on their pipeline operating and maintenance history.

5. Reduces Test Water Requirements

This proposal would allow operators options that require less test water and generate less water requiring treatment.

6. Provides an Opportunity To Reduce Operating Costs and Maintain the Necessary Margins of Safety by Applying the Risk-based Concept

Acceptance and implementation of this proposal provides an opportunity to pilot a risk-based approach to regulation. OPS anticipates increased use of risk-based approaches in future rulemakings.

III. Proposed Rule

RSPA is proposing to add a new section to Part 195 entitled ''Risk-based alternative to pressure testing.'' Existing sections § 195.303 ''Test pressure'', and § 195.304 ''Testing of components'' will be renumbered as § 195.304 and § 195.305 respectively.

Proposed new section § 195.303 ''Risk-based alternative to pressure testing'' would allow an operator of older hazardous liquid and carbon dioxide pipeline to elect an approach to evaluating the integrity of lines that takes into account individual risk factors. This alternative establishes test priorities based on the inherent risk of a given pipeline segment. Each pipeline is assigned a risk classification based on several indicators. In assigning a risk classification to a given pipeline segment, the first step is to determine whether or not the segment contains pre-1970 ERW and lap-weld pipe susceptible to longitudinal seam failures [1].

The next step is to determine the pipeline segment's proximity to populated areas (Location).

We are not now proposing to include environmentally sensitive locations within the risk factors for application of the alternative. This is consistent with the API proposal for a risk based alternative. Following public briefings on the progress of the rulemaking at the THLPSSC meetings in November 1996 and May 1997, API objected to inclusion of an environmental factor as premature in light of the ongoing rulemaking to define unusually sensitive areas (USAs). While we do not necessarily agree that a definition of USAs will provide the sole basis for inclusion of an environmental factor for a risk-based alternative to pressure testing, we recognize the difficulties in including such a factor before the USA definition is formulated. The difficulty in even articulating a factor at this time was made very apparent by THLPSSC members at the May 1997 meeting (while one member argued that the environmental factor under consideration for the proposed rule was inadequate, two other members challenged that argument) and discussions with the members and API following that meeting. Because this alternative takes into consideration other significant risk factors that may impact severity of a release, i.e., proximity to populated areas, potential volume of the product release, the nature of product transported, pipeline failure history and pipeline susceptible to longitudinal seam failures, it is unlikely that pipeline testing is being undermined by not considering the environmental factor in the interim. Therefore, we have decided to omit an environmental factor at this time and explore the issue further once we have defined ''unusually sensitive areas''.

The risk classification of a segment is also adjusted based on the pipeline failure history, the product transported, and the volume potentially releasable in a failure. Additional guidance for use of the alternative is provided in a new proposed Appendix B.

The pipeline failure history, denoted in the proposed rule as ''Probability of Failure Indicator,'' is an important factor. The history of past failures (types of failures, number of failures, sizes of releases, etc.) plays an important role in determining the chances of future occurrences for a particular pipeline system. Therefore, it has been included as risk factor in the matrix for determining the risk classification. In the proposed rule the probability of failure indicator is considered ''high risk'' if the pipeline segment has experienced more than three failures in last 10 years due to time-dependent defects (due to corrosion, gouges, or problems developed during manufacture, construction or operation, etc.). Pipeline operators should make an appropriate investigation of spills to determine whether they are due to time-dependent defects. An operator's determination should be based on sound engineering judgment and be documented. RSPA seeks comment on whether some failures are so minimal as to be appropriately excluded from the failure history risk factor. If so, how should the failure be quantified? Should it only be a reportable incident?

In addition, the proposed rule provides compliance dates and recordkeeping requirements for those operators who elect the risk-based alternative to pressure testing of older hazardous liquid and carbon dioxide pipelines.

RSPA believes the proposed rule will provide the pipeline industry with the flexibility to elect alternative technology for evaluating pipeline integrity without sacrificing safety.

IV. Rulemaking Analyses

Executive Order 12866 and DOT Regulatory Policies and Procedures

This proposed rule is a significant regulatory action under Executive Order 12866. Therefore, this notice was reviewed by the Office of Management and Budget. In addition, this proposed rule is significant under DOT's regulatory policies and procedures (44 FR 11034; February 26, 1979) because it is the first explicitly risk-based approach to rulemaking proposed by the Office of Pipeline Safety. A copy of the draft regulatory evaluation to this proposal is also available in the docket office for review.

This section summarizes the conclusions of the draft regulatory evaluation. RSPA's pressure testing final rule was published on June 7, 1994 (59 FR 29379) along with a regulatory evaluation which found that the rule had a positive net benefit to the public, i.e., the benefits of the rule exceeded the cost (Present value costs of the earlier proposal were estimated to be between $134–$179 million in 1997 dollars while the present value benefits were estimated as $230–$283 million). Since the risk-based alternative maintains the necessary margins of safety, the benefits of this alternative should be similar to the benefits of the earlier proposal. The present value costs for the risk-based alternative are estimated to be between $88.4–$98.4 million for reasons described below. The proposed rule allows the use of alternative technology (smart pigs) for evaluating pipeline integrity. On average smart pig testing is less expensive than pressure testing by $2,650/mile. In some cases smart pig technology provides more information about pipeline anomalies than pressure testing. The alternative would reduce the total amount of test water, which should lower the waste treatment costs and generate less hazardous waste. The alternative would allow operators to forgo testing where pipelines have low operating pressures, transport non-volatile product, operate in rural areas, and have good records on pipeline failure history.

This risk-based approach is an ongoing process. RSPA believes that the risk-based alternative maintains the necessary margins of safety for the public. Moreover, RSPA concludes that this alternative has the potential for positive improvements for the environment while reducing operating costs by allowing operators to elect those test methods most appropriate to the circumstances of each pipeline.

Regulatory Flexibility Act

The regulatory flexibility analysis of the earlier final rule concluded that it would not have a significant impact on a substantial number of small entities. RSPA believes that because this proposed regulation offers an alternative to operators that could reduce the impact of the earlier regulation, this

[1] Certain pre-1970 ERW and lap-weld pipeline segments are susceptible to longitudinal seam failures. An Operator must consider the seam-related leak history of the pipe and pipe manufacturing information as available, which may include the pipe steel's mechanical properties, including fracture toughness; the manufacturing process and controls related to seam properties, including whether the ERW process was high-frequency or low-frequency, whether the weld seam was heat treated, whether the seam was inspected, the test pressure and duration during mill hydrotest; the quality control of the steel-making process; and other factors pertinent to seam properties and quality.

proposed rule does not have a significant impact on a substantial number of small entities. Based on the facts available about the anticipated impact of this rulemaking action, I certify pursuant to Section 605 of the Regulatory Flexibility Act (5 U.S.C. 605) that the action will not have a significant economic impact on a substantial number of small entities.

However, RSPA does not currently have specific information about small entities which may elect to use this alternative to pressure testing. RSPA requests comments from small entities directed at the impacts of this proposed rule.

Executive Order 12612

This rulemaking action will not have substantial direct effects on states, on the relationship between the Federal Government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with E.O. 12612 (52 FR 41685; October 30, 1987), RSPA has determined that this final rule does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

Paperwork Reduction Act

This rule does not substantially modify the paperwork burden on pipeline operators. Under the current pressure testing regulations operators are required to have testing plans, schedules, and records. The risk-based alternative would require the same or equivalent plans, schedules, and records for either pressure testing or internal inspection. Therefore, there is no additional paperwork required. Operators who choose the risk-based alternative will be required to have records that the pipeline segment which is not being tested qualifies for the risk-based alternative. According to conversations between OPS and the pipeline industry some of this information is already available in the form of drawings or plans that can be found either in operators' Facility Response Plans required by the Oil Pollution Act of 1990 (OPA 90) or in emergency response plans required by RSPA.

Operators will be required to periodically review the pipelines that qualify for the risk-based alternative to ensure that they still qualify. OPS believes that operators can conduct this review as part of their normal procedures.

Because of the above analysis, OPS does not believe that operators will have any additional paperwork burden because of this alternative, and therefore no separate paperwork submission is required.

National Environmental Policy Act

RSPA has analyzed this action for purposes of the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and has determined that this action would not significantly affect the quality of the human environment. An Environmental Assessment and a Finding of No Significant Impact are in the docket.

List of Subjects in 49 CFR Part 195

Anhydrous ammonia, Carbon dioxide, Petroleum, Pipeline safety, Reporting and recordkeeping requirements.

In consideration of the foregoing, RSPA proposes to amend part 195 of title 49 of the Code of Federal Regulations as follows:

PART 195—[AMENDED]

1. The authority citation for part 195 continues to read as follows:

Authority: 49 U.S.C. 60102, 60104, 60108, and 60109; and 49 CFR 1.53.

2. Section 195.302 would be amended by adding a new paragraph (b)(4) to read as follows:

§ 195.302 General requirements.

* * * * *

(b) * * *

(4) Those portions of older hazardous liquid and carbon dioxide pipelines for which an operator has elected the risk-based alternative under § 195.303 and which are not required to be tested based on the risk-based criteria.

* * * * *

3. Section 195.302(a) is amended by removing cross-reference ''§ 195.304(b)'' and adding in its place cross-reference ''§ 195.305(b)''.

4. In paragraph (c) of § 195.302, the introductory text would be revised to read as follows:

§ 195.302 General requirements.

* * * * *

(c) Except for pipelines that transport HVL onshore, low-stress pipelines, and pipelines covered under § 195.303, the following compliance deadlines apply to pipelines under paragraphs (b)(1) and (b)(2)(i) of this section that have not been pressure tested under this subpart:

* * * * *

§ 195.303 and 195.304 [redesignated]

5. Section 195.303 ''Test pressure'' and § 195.304 ''Testing of components'' are redesignated as § 195.304 ''Test pressure'' and § 195.305 ''Testing of components''

6. Part 195 would be amended by adding a new § 195.303 to read as follows:

§ 195.303 Risk-based alternative to pressure testing older hazardous liquid and carbon dioxide pipelines.

(a) An operator may elect to follow a program for testing a pipeline on risk-based criteria as an alternative to the pressure testing in § 195.302(b)(1)(i) through (iii) and § 195.302(b)(2)(i) of this subpart. Appendix B provides guidance on how this program will work. An operator electing such a program shall assign a risk classification to each pipeline segment according to the indicators described in paragraph (b) of this section as follows:

(1) Risk Classification A if the location indicator is ranked as low or medium risk, the product and volume indicators are ranked as low risk, and the probability of failure indicator is ranked as low risk;

(2) Risk Classification C if the location indicator is ranked as high risk; or

(3) Risk Classification B.

(b) An operator shall evaluate each pipeline segment in the program according to the following indicators of risk:

(1) The location indicator is—

(i) High risk if an area is non-rural [1]; or

(ii) Medium risk [2]; or

(iii) Low risk if an area is not high or medium risk.

(2) The product indicator is—

(i) High risk if the product transported is highly toxic or is both highly volatile and flammable;

(ii) Medium risk if the product transported is flammable with a flashpoint of less than 100° F, but not highly volatile; or

(iii) Low risk if the product transported is not high or medium risk.

(3) The volume indicator is—

(i) High risk if the line is at least 18 inches in nominal diameter;

(ii) Medium risk if the line is at least 10 inches, but less than 18 inches, in nominal diameter; or

(iii) Low risk if the line is not high or medium risk.

(4) The probability of failure indicator is—

(i) High risk if the segment has experienced more than three failures in the last 10 years due to time-dependent defects (e.g., corrosion, gouges, or problems developed during manufacture, construction or operation, etc.); or

[1] An environmental factor will be considered in a later rulemaking.

[2] Not currently applicable; it may be applicable with addition of environmental factor to the location indicator.

(ii) Low risk if the segment has experienced less than three failures in the last 10 years due to time-dependent defects.

(c) The program under paragraph (a) of this section shall provide for pressure testing for a segment constructed of electric resistance-welded (ERW) pipe and lapweld pipe manufactured prior to 1970 susceptible to longitudinal seam failures as determined through paragraph (d) of this section. The timing of such pressure test may be determined based on risk classifications discussed under paragraph (b) of this section. For other segments, the program may provide for use of a magnetic flux leakage or ultrasonic internal inspection survey as an alternative to pressure testing and, in the case of such segments in Risk Classification A, may provide for no additional measures.

(d) All pre-1970 ERW pipe and lapweld pipe is deemed susceptible to longitudinal seam failures unless an engineering analysis shows otherwise. In conducting an engineering analysis an operator must consider the seam-related leak history of the pipe and pipe manufacturing information as available, which may include the pipe steel's mechanical properties, including fracture toughness; the manufacturing process and controls related to seam properties, including whether the ERW process was high-frequency or low-frequency, whether the weld seam was heat treated, whether the seam was inspected, the test pressure and duration during mill hydrotest; the quality control of the steel-making process; and other factors pertinent to seam properties and quality.

(e) Pressure testing done under this section must be conducted in accordance with this subpart. Except for segments in Risk Classification B which are not constructed with pre-1970 ERW pipe, water must be the test medium.

(f) An operator electing to follow a program under paragraph (a) of this section must develop plans that include the method of testing and a schedule for the testing by December 7, 1998. The compliance deadlines for completion of testing are as shown in the table below:

Table: § 195.303—Test deadlines

Pipeline segment	Risk classification	Test deadline
Pre-1970 Pipe susceptible to longitudinal seam failures [defined in § 195.303(c) & (d)]	C or B	12/7/2000
	A	12/7/2002
All Other Pipeline Segments	C	12/7/2002
	B	12/7/2004
	A	Additional testing not required.

(g) An operator must review the risk classifications at intervals not to exceed 15 months. If the risk classification of a segment changes, an operator must take appropriate action within two years, or establish the maximum operating pressure under § 195.406(a)(5).

(h) An operator must maintain records establishing compliance with this section, including records verifying the risk classifications, the plans and schedule for testing, the conduct of the testing, and the review of the risk classifications.

(i) An operator may discontinue a program under this section only after written notification to the Administrator and approval, if needed, of a schedule for pressure testing.

§ 195.406 [Amended]

7. Section 195.406(a)(4) is amended by removing cross-reference ''§ 195.304'' and adding cross-reference ''§ 195.305'' in its place.

8. A new Appendix B would be added to Part 195 to read as follows:

Appendix B to Part 195—Risk-Based Alternative to Pressure Testing Older Hazardous Liquid and Carbon Dioxide Pipelines

Risk-Based Alternative

This Appendix provides guidance on how a risk-based alternative to pressure testing older hazardous liquid and carbon dioxide pipelines rule allowed by § 195.303 will work. This risk-based alternative establishes test priorities for older pipelines, not previously pressure tested, based on the inherent risk of a given pipeline segment. The first step is to determine the classification based on the type of pipe or on the pipeline segment's proximity to populated. Secondly, the classifications must be adjusted based on the pipeline failure history, product transported, and the release volume potential.

Tables 2 through 6 give definitions of risk classification A, B, and C facilities. For the purposes of this rule, pipeline segments containing high risk electric resistance-welded pipe (ERW pipe) and lapwelded pipe manufactured prior to 1970 and considered a risk classification C or B facility shall be treated as the top priority for testing because of the higher risk associated with the susceptibility of this pipe to longitudinal seam failures.

In all cases, operators shall annually, at intervals not to exceed 15 months, review their facilities to reassess the classification and shall take appropriate action within two years or operate the pipeline system at a lower pressure. Pipeline failures, changes in the characteristics of the pipeline route, or changes in service should all trigger a reassessment of the originally classification.

Table 1 explains different levels of test requirements depending on the inherent risk of a given pipeline segment. The overall risk classification is determined based on the type of pipe involved, the facility's location, the product transported, the relative volume of flow and pipeline failure history as determined from Tables 2 through 6.

TABLE 1.—TEST REQUIREMENTS—MAINLINE SEGMENTS OUTSIDE OF TERMINALS, STATIONS, AND TANK FARMS

Pipeline segment	Risk classification	Test deadline [1]	Test medium
Pre-1970 Pipeline Segments susceptible to longitudinal seam failures [2]	C or B	12/7/2000 [3]	Water only.
	A	12/7/2002 [3]	Water only.
All Other Pipeline Segments	C	12/7/2002 [4]	Water only.
	B	12/7/2004 [4]	Water/Liq.[5]

TABLE 1.—TEST REQUIREMENTS—MAINLINE SEGMENTS OUTSIDE OF TERMINALS, STATIONS, AND TANK FARMS—Continued

Pipeline segment	Risk classification	Test deadline [1]	Test medium
	A	Additional pressure testing not required.	

[1] If operational experience indicates a history of past failures for a particular pipeline system, failure causes (time-dependent defects due to corrosion, construction, manufacture, or transmission problems, etc.) shall be reviewed in determining risk classification (See Table 6) and the timing of the pressure test should be accelerated.

[2] All pre-1970 ERW pipeline segments may not require testing. In determining which ERW pipeline segments should be included in this category, an operator must consider the seam-related leak history of the pipe and pipe manufacturing information as available, which may include the pipe steel's mechanical properties, including fracture toughness; the manufacturing process and controls related to seam properties, including whether the ERW process was high-frequency or low-frequency, whether the weld seam was heat treated, whether the seam was inspected, the test pressure and duration during mill hydrotest; the quality control of the steel-making process; and other factors pertinent to seam properties and quality.

[3] For those pipeline operators with extensive mileage of pre-1970 ERW pipe, any waiver requests for timing relief should be supported by an assessment of hazards in accordance with location, product, volume, and probability of failure considerations consistent with Tables 3, 4, 5, and 6.

[4] A magnetic flux leakage or ultrasonic internal inspection survey may be utilized as an alternative to pressure testing where leak history and operating experience do not indicate leaks caused by longitudinal cracks or seam failures.

[5] Pressure tests utilizing a hydrocarbon liquid may be conducted, but only with a liquid which does not vaporize rapidly.

Using LOCATION, PRODUCT, VOLUME, and FAILURE HISTORY ''Indicators'' from Tables 3, 4, 5, and 6 respectively, the overall risk classification of a given pipeline or pipeline segment can be established from Table 2. The LOCATION Indicator is the primary factor which determines overall risk, with the PRODUCT, VOLUME, and PROBABILITY OF FAILURE Indicators used to adjust to a higher or lower overall risk classification per the following table.

TABLE 2.—RISK CLASSIFICATION

Risk classification	Hazard location indicator	Product/volume indicator	Probability of failure indicator
A	L or M	L/L	L
B	Not A or C Risk Classification		
C	H	Any	Any.

H=High, M=Moderate, and L=Low.

NOTE: For Location, Product, Volume, and Probability of Failure Indicators, see Tables 3, 4, 5, and 6.

Table 3 is used to establish the LOCATION indicator used in Table 2. Based on the population (and environmental in the future) characteristics associated with a pipeline facility's location, a LOCATION Indicator of H, (M) or L is selected.

TABLE 3.—LOCATION INDICATORS—PIPELINE SEGMENTS

Indicator	Population [1]	Environment [2]
H	Non-rural areas	
M		
L	Rural areas	

[1] The effects of potential vapor migration should be considered for pipeline segments transporting highly volatile or toxic products.

[2] An environmental factor has not been included at this time, but may be once a definition of ''unusually sensitive areas'' has been established.

Tables 4, 5 AND 6 are used to establish the PRODUCT, VOLUME, and PROBABILITY OF FAILURE Indicators respectively, in Table 2. The PRODUCT Indicator is selected from Table 4 as H, M, or L based on the acute and chronic hazards associated with the product transported. The VOLUME Indicator is selected from Table 5 as H, M, or L based on the nominal diameter of the pipeline. The Probability of Failure Indicator is selected from Table 6.

TABLE 4.—PRODUCT INDICATORS

Indicator	Considerations	Product examples
H	(Highly volatile and flammable)	(Propane, butane, Natural Gas Liquid (NGL), ammonia).
	Highly toxic	(Benzene, high Hydrogen Sulfide content crude oils).
M	Flammable—flashpoint <100F	(Gasoline, JP4, low flashpoint crude oils).
L	Non-flammable—flashpoint 100+F	(Diesel, fuel oil, kerosene, JP5, most crude oils).
	Highly volatile and non-flammable/non-toxic	Carbon Dioxide.

Considerations: The degree of acute and chronic toxicity to humans, wildlife, and aquatic life; reactivity; and, volatility, flammability, and water solubility determine the Product Indicator. Comprehensive Environmental Response, Compensation and Liability Act Reportable Quantity values can be used as an indication of chronic toxicity. National Fire Protection Association health factors can be used for rating acute hazards.

TABLE 5.—VOLUME INDICATORS

Indicator	Line size
H	≥18″
M	10″–16″ nominal diameters.
L	≤8″ nominal diameter.

H=High, M=Moderate, and L=Low.

Table 6 is used to establish the PROBABILITY OF FAILURE Indicator used in Table 2. The ''Probability of Failure'' Indicator is selected from Table 6 as H or L.

TABLE 6.—PROBABILITY OF FAILURE INDICATORS (IN EACH HAZ. LOCATION)

Indicator	Failure history (time-dependent defects) [2]
H [1]	> Three spills in last 10 years.
L	≤ Three spills in last 10 years.

H=High and L=Low.

[1] Pipeline segments with greater than three product spills in the last 10 years should be reviewed for failure causes as described in subnote([2]). The pipeline operator should make an appropriate investigation and reach a decision based on sound engineering judgment, and be able to demonstrate the basis of the decision.

[2] Time-Dependent Defects are defects that result in spills due to corrosion, gouges, or problems developed during manufacture, construction or operation, etc.

Issued in Washington, D.C. on January 30, 1998.

Richard B. Felder,

Associate Administrator for Pipeline Safety.

[FR Doc. 98–2860 Filed 2–4–98; 8:45 am]

BILLING CODE 4910–60–P

Notices

Federal Register
Vol. 63, No. 24
Thursday, February 5, 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

Submission for OMB Review; Comment Request

January 29, 1998.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Pub. L. 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 *and* to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–6746.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

• *Animal and Plant Health Inspection Service*

Title: National Poultry Improvement Plan (NPIP).

OMB Control Number: 0579–0007.

Summary of Collection: Information is being collected from poultry breeders to track the status of flocks (i.e., type, size, location), flock testing and disease management data.

Need and Use of the Information: The information collected is used by USDA and state governments to track poultry flocks and to control the source of communicable poultry diseases.

Description of Respondents: Business or other for-profit; State, Local or Tribal Government.

Number of Respondents: 9,000.

Frequency of Responses: Recordkeeping; Reporting: Annually.

Total Burden Hours: 7,444.

• *Animal and Plant Health Inspection Service*

Title: Prohibited and Restricted Importation of Meats, Animal Byproducts, Poultry, Organisms and Vectors in the U.S.

OMB Control Number: 0579–0015.

Summary of Collection: Information will be collected from importers, transporters, inspectors, processors, and all others involved in the importation of restricted/controlled animal and poultry products and byproducts, organisms, and vectors into the United States.

Need and Use of the Information: The government will use the information collected to control/prevent the introduction or dissemination of communicable disease of animals and/or live poultry from a foreign country into the United States.

Description of Respondents: Business or other for-profit; Individuals or households; Not-for-profit institutions; Federal Government; State, Local or Tribal Government.

Number of Respondents: 8,961.

Frequency of Responses: Recordkeeping; Reporting: On occasion.

Total Burden Hours: 31.256.

Nancy Sternberg,

Departmental Clearance Officer.

[FR Doc. 98–2855 Filed 2–4–98; 8:45 am]

BILLING CODE 3410–01–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[No. LS–98–003]

Beef Promotion and Research: Certification and Nomination for the Cattlemen's Beef Promotion and Research Board

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Department of Agriculture's (USDA) Agricultural Marketing Service (AMS) is accepting applications from State cattle producer organizations or associations and general farm organizations as well as beef importers who desire to be certified to nominate producers or importers for appointment to vacant positions on the Cattlemen's Beef Promotion and Research Board (Board). Organizations which have not previously been certified that are interested in submitting nominations must complete and submit an official application form to AMS. Previously certified organizations do not need to reapply. Notice is also given that vacancies will occur on the Board and that during a period to be established, nominations will be accepted from eligible organizations and individual importers.

DATES: Applications for certification must be received by close of business March 9, 1998.

ADDRESSES: Certification forms as well as copies of the certification and nomination procedures may be requested from Ralph L. Tapp, Chief; Marketing Programs Branch-STOP 0251; Livestock and Seed Program; AMS, USDA, Room 2606–S; P.O. Box 96456; Washington, D.C. 20090–6456.

FOR FURTHER INFORMATION CONTACT: Ralph L. Tapp, Chief, Marketing Programs Branch on 202/720–1115.

SUPPLEMENTARY INFORMATION: The Beef Promotion and Research Act of 1985 (Act) (7 U.S.C. 2901 *et seq.*), enacted December 23, 1985, authorizes the implementation of a Beef Promotion and Research Order (Order). The Order, as published in the July 18, 1986, **Federal Register** (51 FR 26132), provides for the establishment of a Board. The current Board consists of 104 cattle producers and 7 importers appointed by the

Secretary. The duties and responsibilities of the Board are specified in the Order.

The Act and the Order provide that the Secretary shall either certify or otherwise determine the eligibility of State or importer organizations or associations to nominate members to the Board to ensure that nominees represent the interests of cattle producers and importers. Nominations for importer representatives may also be made by individuals who import cattle, beef, or beef products. Individual importers do not need to be certified as eligible to submit nominations. When individual importers submit nominations, they must establish to the satisfaction of the Secretary that they are in fact importers of cattle, beef, or beef products, pursuant to § 1260.143(b)(2) of the Order (7 CFR 1260.143(b)(2)). Individual importers are encouraged to contact AMS at the above address to obtain further information concerning the nomination process including the beginning and ending dates of the established nomination period and required nomination forms and background information sheets. Certification and nomination procedures were promulgated in the final rule, published in the April 4, 1986, **Federal Register** (51 FR 11557) and currently appear at 7 CFR § 1260.500 through § 1260.640. Organizations which have previously been certified to nominate members to the Board do not need to reapply for certification to nominate producers and importers for the existing vacancies.

The Act and the Order provide that the members of the Board shall serve for terms of 3 years. The Order also requires USDA to announce when a Board vacancy does or will exist. The following States have one or more members whose terms will expire in early 1999:

State or unit	Number of vacancies
Alabama	1
Arkansas	1
California	2
Colorado	1
Florida	1
Georgia	1
Idaho	1
Illinois	1
Indiana	1
Iowa	2
Kansas	2
Kentucky	1
Minnesota	1
Missouri	2
Montana	1
Nebraska	2
New York	1
North Dakota	1
Ohio	1
Oklahoma	2
Pennsylvania	1
South Dakota	1
Tennessee	1
Texas	5
Virginia	1
Wisconsin	1
Northwest Unit	1
Western Unit (Oregon-Nevada Region)	1
Importer Unit	1

Since there are no anticipated vacancies on the Board for the remaining States' positions, or for the positions of the Northeast and Mid-Atlantic units, nominations will not be solicited from certified organizations or associations in those States or units.

Uncertified eligible producer organizations in all States that are interested in being certified as eligible to nominate cattle producers for appointment to the listed producer positions, must complete and submit an official ''Application for Certification of Organization or Association,'' which must be received by March 20, 1998. Uncertified eligible importer organizations that are interested in being certified as eligible to nominate importers for appointment to the listed importer positions must apply by the same date. Importers should not use the application form but should provide the requested information by letter as provided for in 7 CFR § 1260.540(b). Applications from States or units without vacant positions on the Board and other applications not received within the 30-day period after publication of this notice in the **Federal Register** will be considered for eligibility to nominate producers or importers for subsequent vacancies on the Board.

Only those organizations or associations which meet the criteria for certification of eligibility promulgated at 7 CFR § 1260.530 are eligible for certification. Those criteria are:

(a) For State organizations or associations:

(1) Total paid membership must be comprised of at least a majority of cattle producers or represent at least a majority of cattle producers in a State or unit.

(2) Membership must represent a substantial number of producers who produce a substantial number of cattle in such State or unit.

(3) There must be a history of stability and permanency.

(4) There must be a primary or overriding purpose of promoting the economic welfare of cattle producers.

(b) For organizations or associations representing importers, the determination by the Secretary as to the eligibility of importer organizations or associations to nominate members to the Board shall be based on applications containing the following information:

(1) The number and type of members represented (i.e., beef or cattle importers, etc.).

(2) Annual import volume in pounds of beef and beef products and/or the number of head of cattle.

(3) The stability and permanency of the importer organization or association.

(4) The number of years in existence.

(5) The names of the countries of origin for cattle, beef, or beef products imported.

All certified organizations and associations, including those which were previously certified in the States or units having vacant positions on the Board, will be notified simultaneously in writing of the beginning and ending dates of the established nomination period and will be provided with required nomination forms and background information sheets.

The names of qualified nominees received by the established due date will be submitted to the Secretary of Agriculture for consideration as appointees to the Board.

The information collection requirements referenced in this notice have been previously approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C., Chapter 35 and have been assigned OMB No. 0581–0093, except Board member nominee information sheets are assigned OMB No. 0505–0001.

Authority: 7 U.S.C. 2901 *et seq.*

Dated: January 29, 1998.

Barry L. Carpenter,

Deputy Administrator, Livestock and Seed Program.

[FR Doc. 98–2857 Filed 2–4–98; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Docket No. TB–98–05]

Flue-Cured Tobacco Advisory Committee; Meeting

In accordance with the Federal Advisory Committee Act (5 U.S.C. App.) announcement is made of the following committee meeting.

Name: Flue-Cured Tobacco Advisory Committee.

Date: February 26, 1998.

Time: 10 a.m.

Place: United States Department of Agriculture (USDA), Agricultural Marketing Service (AMS), Tobacco Programs, Flue-Cured Tobacco Cooperative Stabilization Corporation Building, Room 223, 1306 Annapolis Drive, Raleigh, North Carolina 27608.

Purpose: The purpose of the meeting is to review and consider alternative packaging methods for flue-cured tobacco and other related matters for the 1998 flue-cured tobacco marketing season.

The meeting is open to the public. Persons, other than members, who wish to address the Committee at the meeting should contact John P. Duncan III, Deputy Administrator, Tobacco Programs, AMS, USDA, Room 502 Annex Building, P.O. Box 96456, Washington, D.C. 20090–6456, (202) 205–0567, prior to the meeting. Written statements may be submitted to the Committee before, at, or after the meeting.

Dated: January 30, 1998.

John P. Duncan III,

Deputy Administrator, Tobacco Programs.

[FR Doc. 98–2856 Filed 2–4–98; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 97–073N]

Nominations for Membership on the National Advisory Committee on Microbiological Criteria for Foods

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Extension of Time Period to Solicit Nominations.

SUMMARY: In the **Federal Register** notice dated January 9, 1998, the Department of Agriculture (USDA) announced it was soliciting nominations for membership on the National Advisory Committee on Microbiological Criteria for Foods (NACMCF). Nominees are sought who have scientific expertise in the fields of Microbiology, Epidemiology, Food Technology, Food Production, Risk Assessment, and Animal and Public health. Persons from the government, industry, academia, and consumer advocacy groups are invited to submit nominations. The notice asked that nominations be sent to the Office of the Administrator of the Food Safety and Inspection Service no later than 30 days from the date of publication of this notice. We would like to extend the date through February 28, 1998.

DATES: The nominee's typed resume or curriculum vitae should be sent to the Office of the Administrator, Food Safety and Inspection Service (FSIS), 6913 Franklin Court, 1400 Independence Avenue, SW, Washington, DC 20250–3700, on or before February 28, 1998.

FOR FURTHER INFORMATION CONTACT: Dr. Richard Ellis at the above address or by telephone at (202) 501–7625.

Done at Washington, DC, on January 28, 1998.

Thomas J. Billy,

Administrator.

[FR Doc. 98–2762 Filed 2–4–98; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 97–081N]

Equivalence Criteria for Imported Meat and Poultry Products

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice of availability and request for comments.

SUMMARY: The Food Safety and Inspection Service (FSIS) is making available for public comment a Codex Alimentarius Commission (Codex) discussion paper, which was prepared by New Zealand with participation from the United States, Australia and Canada, relating to determinations of equivalence of sanitary measures associated with different food inspection and certification systems.

DATES: Written comments must be received on or before March 9, 1998.

ADDRESSES: Copies of the Codex Alimentarius Commission (Codex) discussion paper relating to judgments of equivalence of sanitary measures associated with different food inspection and certification systems are available from the FSIS Docket Clerk in the FSIS Docket Room, Room 102, Cotton Annex, 300 12th Street, SW, Washington, DC 20250–3700, between 8:30 a.m. and 4:30 p.m., Monday through Friday.

Submit one original and two copies of written comments on the paper to: FSIS Docket Clerk, Docket #97–081N, U.S. Department of Agriculture, Food Safety and Inspection Service, Room 102, Cotton Annex, 300 12th Street, SW, Washington, DC 20250–3700. Facsimile comments may be sent to the Docket Clerk at (202) 690–0486. All comments received in response to this notice will be available for public comment in the Docket Clerk's Office between 8:30 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Manis, Director, International Policy Division, Office of Policy, Program Development and Evaluation; (202) 720–6400, or by electronic mail to mark.manis@usda.gov.

Background

FSIS is making available for public comment a Codex discussion paper, which was prepared by New Zealand with participation in drafting meetings by the United States, Australia and Canada. The paper was prepared for the Codex Committee on Food Import and Export Inspection and Certification Systems (CCFICS). It discusses and describes: (1) The basis for the determination of equivalence of sanitary measures associated with different food inspection and certification systems; (2) protection from foodborne hazards by application of particular sanitary measures, and the ''appropriate level of protection'' that is achieved by reference to ''food safety objectives''; (3) application of a risk-based approach in the comparison of food safety objectives; (4) principles to be utilized in the determination of equivalence; (5) a step-wise process for facilitating judgment of equivalence; and (6) the need for CCFICS to develop principles and guidelines for the judgment of equivalence of sanitary measures.

FSIS requests comments on whether the paper, which is scheduled for presentation at the next CCFICS meeting in late February 1998, provides a framework that should be accepted, in general, by the United States for international determinations of equivalence between meat and poultry inspection systems. Written comments received in response to this notice will help prepare U.S. Delegates for the upcoming CCFICS discussions on equivalence and will further the development of FSIS equivalence policies for imported meat and poultry products. FSIS intends to publish equivalence policies for public review and comment in the spring of 1998. The Agency will subsequently hold a public meeting to obtain additional comments on equivalence determinations.

Done at Washington, DC on January 28, 1998.

Thomas J. Billy,

Administrator.

[FR Doc. 98–2763 Filed 2–4–98; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Short Supply Regulations, Petroleum Products

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, 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, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before April 6, 1998.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Ms. Dawn Battle, Department of Commerce, 14th and Constitution Avenue, NW, room 6877, Washington, DC, 20230.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Naval Petroleum Reserves Production Act of 1976 restricts the export of any petroleum product produced from crude oil derived from National Petroleum Reserves. Under very limited circumstances, petroleum products can be exported if an export licenses is obtained. This information collection requires the submission of documents to support export license applications, or the retention of documents for shipments made under applicable License Exceptions of petroleum products derived from a naval petroleum reserve.

II. Method of collection

Submission with BXA form BXA–748P and record retention.

III. Data

OMB Number: 0694–0026.

Form Number: Not applicable.

Type of Review: Regular submission for extension of a currently approved collection.

Affected Public: Individuals, businesses or other for-profit and not-for-profit institutions.

Estimated Number of Respondents: 165.

Estimated Time Per Response: 15 to 30 minutes per response.

Estimated Total Annual Burden Hours: 43.

Estimated Total Annual Cost: $0 (no capital expenditures are required).

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

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 also become a matter of public record.

Dated: January 30, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 98–2761 Filed 2–4–98; 8:45 am]

BILLING CODE 3510–DT–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Information Systems; Technical Advisory Committee; Notice of Partially Closed Meeting

A meeting of the Information Systems Technical Advisory Committee will be held February 19 & 20, 1998, Room 1617M–2, in the Herbert C. Hoover Building, 14th Street between Constitution and Pennsylvania Avenues, N.W., Washington, D.C. This Committee advises the Office of the Assistant Secretary for Export Administration with respect to technical questions that affect the level of export controls applicable to information systems equipment and technology.

February 19

General Session 9:00 a.m.

1. Opening remarks by the Chairman.
2. Solicitation of public comments on Composite Theoretical Performance as the appropriate performance metric for future chip designs.
3. Discussion of ECCN 4E001, paragraph for License Exception TSR (Technology and Software Restricted).
4. Bureau of Export Administration update on encryption licensing initiatives.
5. Other comments or presentations by the public.

February 19 & 20

Closed Session

6. Discussion of matters properly classified under Executive Order 12958, dealing with U.S. export control programs and strategic criteria related thereto.

The General Session of the meeting is open to the public and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, to facilitate distribution of public presentation materials to the Committee members, the Committee suggests that public presentation materials or comments be forwarded at least one week before the meeting to the address listed below: Ms. Lee Ann Carpenter, OAS/EA MS: 3886C, Bureau of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on October 3, 1997, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings or portions of meetings of these Committees and of any Subcommittees thereof, dealing with the classified materials listed in 5 U.S.C. 552(c)(1) shall be exempt from the provisions relating to public meetings found in section 10(a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public. A copy of the Notice of Determination to close meetings or portions of meetings of these Committees is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6020, U.S. Department of Commerce, Washington, D.C. For further information or copies of the minutes call Lee Ann Carpenter, 202–482–2583.

Dated: January 30, 1998.

Lee Ann Carpenter,

Director, Technical Advisory Committee Unit.

[FR Doc. 98–2755 Filed 2–4–98; 8:45 am]

BILLING CODE 3510–DT–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 947]

Grant of Authority; Establishment of a Foreign-Trade Zone Durant, Oklahoma

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, by an Act of Congress approved June 18, 1934, an Act ''To provide for the establishment of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Rural Enterprises of Oklahoma, Inc. (Grantee) (an Oklahoma not-for-profit corporation), has made application to the Board (FTZ Docket 5–97, 62 FR 6947, 2/14/97), requesting the establishment of a foreign-trade zone at a site in Durant, Oklahoma, adjacent to the Dallas/Fort Worth Customs port of entry; and,

Whereas, notice inviting public comment has been given in the **Federal Register**, and the Board adopts the findings and recommendations of the examiner's report and finds that the requirements of the Act and the Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby grants to the Grantee the privilege of establishing a foreign-trade zone, designated on the records of the Board as Foreign-Trade Zone No. 227, at the site described in the application, subject to the Act and the Board's regulations, including Section 400.28.

Signed at Washington, DC, this 27th day of January 1998.

Foreign-Trade Zones Board.

William M. Daley,

Secretary of Commerce, Chairman and Executive Officer.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 98–2891 Filed 2–4–98; 8:45 am]

BILLING CODE 3410–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review

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

ACTION: Notice of opportunity to request administrative review of antidumping or countervailing duty order, finding, or suspended investigation.

BACKGROUND: Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspension of investigation, an interested party, as defined in section 771(9) of the Tariff Act of 1930, as amended, may request, in accordance with § 351.213 of the Department of Commerce (the Department) Regulations (19 CFR 351.213 (1997)), that the Department conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

OPPORTUNITY TO REQUEST A REVIEW: Not later than the last day of February 1998, interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in February for the following periods:

Antidumping duty proceedings	Period
AUSTRIA: Railway Track Maintenance Equipment	
A–433–064	2/1/97–1/31/98
BRAZIL: Stainless Steel Bar	
A–351–825	2/1/97–1/31/98
CANADA: Racing Plates	
A–122–050	2/1/97–1/31/98
GERMANY: Sodium Thiosulfate	
A–428–807	2/1/97–1/31/98
INDIA: Forged Stainless Steel Flanges	
A–533–809	2/1/97–1/31/98
INDIA: Stainless Steel Bar	
A–533–810	2/1/97–1/31/98
JAPAN: Benzyl Paraben	
A–588–816	2/1/97–1/31/98
JAPAN: Butt-Weld Pipe Fittings	
A–588–602	2/1/97–1/31/98
JAPAN: Mechanical Transfer Presses	
A–588–810	2/1/97–1/31/98
JAPAN: Melamine	
A–588–056	2/1/97–1/31/98
JAPAN: Stainless Steel Bar	
A–588–833	2/1/97–1/31/98
REPUBLIC OF KOREA: Business Telephone Systems	
A–580–803	2/1/97–1/31/98
REPUBLIC OF KOREA: Stainless Steel Butt-Weld Pipe Fittings	
A–580–813	2/1/97–1/31/98
TAIWAN: Forged Stainless Steel Flanges	
A–583–821	2/1/97–1/31/98
THE PEOPLE'S REPUBLIC OF CHINA: Axes/adzes	
A–570–803	2/1/97–1/31/98

Antidumping duty proceedings	Period
THE PEOPLE'S REPUBLIC OF CHINA: Bars/wedges	
A–570–803	2/1/97–1/31/98
THE PEOPLE'S REPUBLIC OF CHINA: Coumarin	
A–570–830	2/1/97–1/31/98
THE PEOPLE'S REPUBLIC OF CHINA: Hammers/sledges	
A–570–803	2/1/97–1/31/98
THE PEOPLE'S REPUBLIC OF CHINA: Paint Brushes	
A–570–501	2/1/97–1/31/98
THE PEOPLE'S REPUBLIC OF CHINA: Picks/mattocks	
A–570–803	2/1/97–1/31/98
THE PEOPLE'S REPUBLIC OF CHINA: Sodium Thiosulfate	
A–570–805	2/1/97–1/31/98
THE UNITED KINGDOM: Sodium Thiosulfate	
A–412–805	2/1/97–1/31/98
Countervailing Duty Proceedings	
NONE..	
Suspension Agreements	
VENEZUELA: Cement	
A–307–803	2/1/97–1/31/98

In accordance with § 351.213 of the regulations, an interested party as defined by section 771(9) of the Act may request in writing that the Secretary conduct an administrative review. In recent revisions to its regulations, the Department changed its requirements for requesting reviews for countervailing duty orders. Pursuant to 771(9) of the Act, an interested party must specify the individual producers or exporters covered by the order or suspension agreement for which they are requesting a review (Department of Commerce Regulations, 62 FR 27295, 27424 (May 19, 1997)). Therefore, for both antidumping and countervailing duty reviews, the interested party must specify for which individual producers or exporters covered by an antidumping finding or an antidumping or countervailing duty order it is requesting a review, and the requesting party must state why it desires the Secretary to review those particular producers or exporters. If the interested party intends for the Secretary to review sales of merchandise by an exporter (or a producer if that producer also exports merchandise from other suppliers) which were produced in more than one country of origin and each country of origin is subject to a separate order, then the interested party must state specifically, on an order-by-order basis, which exporter(s) the request is intended to cover.

Seven copies of the request should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room 1870, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW, Washington, DC 20230. The Department also asks parties to serve a copy of their requests to the Office of Antidumping/Countervailing Enforcement, Attention: Sheila Forbes, in room 3065 of the main Commerce Building. Further, in accordance with § 351.303(f)(1)(i) of the regulations, a copy of each request must be served on every party on the Department's service list.

The Department will publish in the **Federal Register** a notice of ''Initiation of Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation'' for requests received by the last day of February 1998. If the Department does not receive, by the last day of February 1998, a request for review of entries covered by an order, finding, or suspended investigation listed in this notice and for the period identified above, the Department will instruct the Customs Service to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

This notice is not required by statute but is published as a service to the international trading community.

Dated: January 28, 1998.

Richard W. Moreland,

Acting Deputy Assistant Secretary, Group II Import Administration.

[FR Doc. 98–2894 Filed 2–4–98; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–808]

Certain Stainless Steel Wire Rods From India; Initiation of New Shipper Antidumping Duty; Administrative Reviews

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

SUMMARY: The Department of Commerce (''the Department'') has received requests to conduct new shipper administrative reviews of the antidumping duty order on certain stainless steel wire rods (''SSWR'') from India, which has a December anniversary date. In accordance with 19 CFR 351.214(d), we are initiating these new shipper administrative reviews.

EFFECTIVE DATE: February 5, 1998.

FOR FURTHER INFORMATION CONTACT: Carrie Blozy or N. Gerard Zapiain, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington DC 20230; telephone: (202) 482–0374 or 482–1395, respectively.

SUPPLEMENTARY INFORMATION:

Background

On December 24, 1997, and December 31, 1997, the Department received timely requests from Panchmahal Steel Limited (''Panchmahal'') and the Viraj Group and its affiliated companies (Viraj Forgings, Viraj Alloys, and Viraj Impoexpo), collectively (''Viraj''), in accordance with 19 CFR 351.214(d), for new shipper reviews of the antidumping duty order on SSWR from India, which has a December anniversary date. *See*

Antidumping Duty Order: Certain Stainless Steel Wire Rods from India, 58 FR 63335 (December 1, 1993). Each entity certified that it did not export SSWR to the United States during the period of investigation (POI) and is not affiliated with any exporter or producer which did export SSWR to the United States during the POI. On January 21, 1998, the Department informed Panchmahal and Viraj that there were certain deficiencies in their requests and requested that they submit additional information. *See Memorandum to the File: Certain Stainless Steel Wire Rods from India; Initiation of New Shipper Antidumping Duty Administrative Reviews* (January 23, 1998). On January 22, 1998, Panchmahal and Viraj submitted additional information sufficient to cure the deficiencies. Therefore, we are initiating new shipper reviews for Panchmahal and Viraj as requested. The period of review is December 1, 1996, through November 30, 1997.

Initiation of Review

In accordance with section 751(a)(2)(B)(ii) of the Act, and 19 CFR 351.214(d)(1), we are initiating new shipper reviews of the antidumping duty order on SSWR from India. We intend to issue the preliminary results of these reviews not later than 180 days from the date of publication of the notice and the final results within 90 days after issuance of the preliminary results.

Antidumping duty proceeding	Period to be reviewed
India: Certain Stainless Steel Wire Rods, A–533–808 ..... Panchmahal Steel Limited Viraj	12/01/96–11/30/97

We will instruct the U.S. Customs Service to allow, at the option of the importer, the posting, until the completion of the review, of a bond or security in lieu of a cash deposit for each entry of the merchandise exported by the above listed companies. This action is in accordance with 19 CFR 351.214(e).

Interested parties that need access to the proprietary information in these new shipper reviews should submit applications for disclosure under administrative protective orders in accordance with 19 CFR 353.34(b).

These initiations and this notice are in accordance with section 751(a) of the Act (19 U.S.C. 1675(a)) and 19 CFR 351.214(d).

Dated: January 30, 1998.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 98–2892 Filed 2–4–98; 8:45 am]

BILLING CODE 3510–DS–P

COMMISSION OF FINE ARTS

Notice of Meeting

The next meeting of the Commission of Fine Arts is scheduled for 19 February 1998 at 10:00 AM in the Commission's offices at the National Building Museum (Pension Building), Suite 312, Judiciary Square, 441 F Street, N.W., Washington, D.C. 20001. The meeting will focus on a variety of projects affecting the appearance of the city.

Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Charles H. Atherton, Secretary, Commission of Fine Arts, at the above address or call 202–504–2200. Individuals requiring sign language interpretation for the hearing impaired should contact the Secretary at least 10 days before the meeting date.

Dated in Washington, D.C. 29 January 1998.

Charles H. Atherton,

Secretary.

[FR Doc. 98–2851 Filed 2–4–98; 8:45 am]

BILLING CODE 6330–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Board of Visitors Meeting

AGENCY: Department of Defense Acquisition University.

ACTION: Board of Visitors Meeting.

SUMMARY: The next meeting of the Defense Acquisition University (DAU) Board of Visitors (BoV) will be held at the Defense Systems Management College (DSMC), 9000 Belvoir Road, Building 184, Fort Belvoir, Virginia on Thursday, February 26, 1998, from 0830 until 1700. The purpose of this meeting is to report back to the BoV on continuing items of interest and discuss the DAU distance learning initiatives. The agenda will include continuing discussions concerning acquisition research and the upcoming Acquisition Reform Day activities, development of the continuing acquisition education policy, and the development of the DAU distance learning program plan and schedule.

The meeting is open to the public; however, because of space limitations, allocation of seating will be made on a first-come, first-served basis. Persons desiring to attend the meeting should call Mrs. Joyce Reniere at (703) 805–5134.

Dated: January 30, 1998.

L.M. Bynum,

Alternate OSD Federal Liaison Officer, Department of Defense.

[FR Doc. 98–2759 Filed 2–4–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

U.S. Strategic Command Strategic Advisory Group

AGENCY: Department of Defense, USSTRATCOM.

ACTION: Notice.

SUMMARY:

The Strategic Advisory Group (SAG) will meet in closed session on April 23 and 24, 1998. The mission of the SAG is to provide timely advice on scientific, technical, and policy-related issues to the Commander in Chief, U.S. Strategic Command, during the development of the nation's strategic war plans. At this meeting, the SAG will discuss strategic issues that relate to the development of the Single Integrated Operational Plan (SIOP). Full development of the topics will require discussion of information classified TOP SECRET in accordance with Executive Order 12958, April 17, 1995. Access to this information must be strictly limited to personnel having requisite security clearances and specific need-to know. Unauthorized disclosure of the information to be discussed at the SAG meeting could have exceptionally grave impact upon national defense.

In accordance with section 10(d) of the Federal Advisory Committee Act, (5 U.S.C. App 2), it has been determined that this SAG meeting concerns matters listed in 5 U.S.C. 552b(c) and that, accordingly, this meeting will be closed to the public.

Dated: January 30, 1998.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–2760 Filed 2–4–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Department of the Air Force

Supplemental Record of Decision (SROD) for the Disposal and Reuse Final Environmental Impact Statement for McClellan Air Force Base (AFB), California (CA)

On December 22, 1997, the Air Force issued a SROD for the disposal of McClellan AFB, CA. The decisions included in this SROD have been made in consideration of the Final Programmatic Environmental Impact Statement for the Disposal and Environmental Impact Report for Reuse (FPEIS/EIR) of McClellan AFB, CA, which was filed with the Environmental Protection Agency on July 3, 1997, and other relevant considerations.

McClellan AFB will officially close in 2001, pursuant to the Defense Base Closure and Realignment Act of 1990, (Public Law 101–510) and the recommendations of the Defense Secretary's Commission on Base Realignment and Closure. This SROD documents the disposal decisions deferred in the Record of Decision (ROD) issued on August 22, 1997, on McClellan AFB.

The Air Force has decided to dispose of the approximately 825 remaining acres of McClellan AFB and associated off base sites in the following manner: Parcel D2 (approximately 1 acre), will be transferred to the County of Sacramento Board of Supervisors which is the official Local Redevelopment Authority (LRA) as an Economic Development Conveyance (EDC) for federal leaseback, Parcel L (approximately 30 acres), Parcel M (approximately 35 acres), Parcel N (approximately 2 acres), Parcel O (approximately 12 acres), Parcel P 270 acres, the River Dock (approximately 2 acres) the golf course (approximately 60 acres), military family housing (approximately 157 acres) will be transferred to the County of Sacramento Board of Supervisors which is the official Local Redevelopment Authority (LRA) with the provision these parcels can be withdrawn from the EDC for public benefit conveyances at a later date. The decision of approximately 196 acres located at the Davis Communication site has been deferred until a later date.

The uses proposed for the property by the prospective recipients of the property under the ROD are included in the proposed action in the FPEIS/EIR and are consistent with the community's revised redevelopment plan for the base. The LRA prepared the plan with the assistance of the broader community.

By this decision, the Air Force adopts certain mitigation measures, as described in this SROD, to protect public health and the environment. In response to the existing or forecasted environmental impacts to or in the area of McClellan AFB, subsequent property owners should consider implementation of the more specific mitigation measures associated with reuses they may undertake, as set forth in Chapter 4 of the PFEIS.

Any questions regarding this matter should be directed to Mr. Charles R. Hatch, Program Manager, Division C. Correspondence should be sent to AFBCA/DC, 1700 North Moore Street, Suite 2300, Arlington, VA 22209–2809.

Barbara A. Carmichael,

Alternate Air Force Federal Register Liaison Officer.

[FR Doc. 98–2870 Filed 2–4–98; 8:45 am]

BILLING CODE 3910–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

ACTION: Submission for OMB review; comment request.

SUMMARY: The Deputy Chief Information Officer, Office of the Chief Information Officer, invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before March 9, 1998.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, S.W., Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. 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.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U. S. C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Deputy Chief Information Officer, Office of the Chief Information Officer, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

Dated: January 30, 1998.

Gloria Parker,

Deputy Chief Information Officer, Office of the Chief Information Officer.

Office of Elementary and Secondary Education

Type of Review: Revision.

Title: Annual Report of Children in State Agency and Locally Operated Institutions for Neglected or Delinquent Children.

Frequency: Annually.

Affected Public: State, Local or Tribal Gov't, SEAs or LEAs.

Annual Reporting and Recordkeeping Hour Burden:

Responses: 3,052.

Burden Hours: 4,224.

Abstract: An annual survey is conducted to collect data on (1) the number of children enrolled in educational programs of State-operated institutions for neglected or delinquent (N or D) children, community day programs for N or D children and adult correctional institutions and (2) the October caseload of N or D children in local institutions. ED uses the data collected through this survey in the

statutory formula to allocate Title I, Part A and Part D, Subpart 1 funds.

[FR Doc. 98–2791 Filed 2–4–98; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Kirtland Area Office (Sandia)

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board, Kirtland Area Office (Sandia).

DATES: Wednesday, February 18, 1998: 6 p.m.—9 p.m. (Mountain Standard Time).

ADDRESSES: Mesa Verde Community Center, 7900 Marquette NE, Albuquerque, New Mexico.

FOR FURTHER INFORMATION CONTACT: Mike Zamorski, Acting Manager, Department of Energy Kirtland Area Office, P.O. Box 5400, Albuquerque, NM 87185 (505) 845–4094.

SUPPLEMENTARY INFORMATION:

Purpose of the Board

The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

6:00 p.m. DOE Quarterly Meeting
7:00 p.m. Public Comments
7:10 p.m. Approval of Agenda
7:12 p.m. Approval of 01/21/98 Minutes
7:17 p.m. Chair's Report—Jamie Welles
7:20 p.m. Board's Mission from DOE's Perspective—Michael Zamorski, DOE
7:25 p.m. Mixed Waste Landfill—Presentation
7:35 p.m. Mixed Waste Landfill—Discussion
7:45 p.m. Break
7:55 p.m. Capping of Mixed Waste Landfill—Presentation—George Allen, SNL
8:05 p.m. Capping of Mixed Waste Landfill—Discussion
8:15 p.m. Self-Evaluation Committee—Transition Plan—Yugal Behl, Committee Chair
8:42 p.m. New/Other Business
8:52 p.m. Public Comments
8:58 p.m. Announcement of Next Meeting—Palo Duro Senior Center
9:00 p.m. Adjourn

A final agenda will be available at the meeting Wednesday, February 18, 1998.

Public Participation

The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Mike Zamorski's office at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments.

Minutes

The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9 a.m. and 4 p.m., Monday-Friday, except Federal holidays. Minutes will also be available by writing to Mike Zamorski, Department of Energy Kirtland Area Office, P.O. Box 5400, Albuquerque, NM 87185, or by calling (505) 845–4094.

Issued at Washington, DC on February 2, 1998.

Rachel Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 98–2838 Filed 2–4–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC98–566–000; FERC–566]

Proposed Information Collection and Request for Comments

January 30, 1998.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed information collection and request for comments.

SUMMARY: In compliance with the requirements of Section 3506(c)(2)(a) of the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13), the Federal Energy Regulatory Commission (Commission) is soliciting public comment on the specific aspects of the information collection described below.

DATES: Consideration will be given to comments submitted on or before April 6, 1998.

ADDRESSES: Copies of the proposed collection of information can be obtained from and written comments may be submitted to the Federal Energy Regulatory Commission, Attn: Michael Miller, Information Services Division, ED–12.4, 888 First Street N.E., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Michael Miller may be reached by telephone at (202) 208–1415, by fax at (202) 273–0873, and by e-mail at michael.miller@ferc.fed.us.

SUPPLEMENTARY INFORMATION: The information collected under the requirements of FERC–566 ''Annual Report of a Utility's Twenty Largest Purchasers'' (OMB No. 1902–0114) is used by the Commission to implement the statutory provisions of Title II, Section 211 of the Public Utility Regulatory Policies Act of 1978 (PURPA) (16 U.S.C. 825d). Submission of the list is necessary to fulfill the requirements of Section 211—Interlocking Directorates, which defines monitoring and regulatory operations concerning interlocking directorate positions held by utility personnel and possible conflicts of interest. The information is collected by the Commission to identify large purchasers of electric energy and possible conflicts of interest. Through this process, the Commission is able to review and exercise oversight of interlocking directorates of public utilities and their related activities. Specifically, the Commission must determine that individuals in utility operations holding two positions at the same time would adversely affect the public interest. The Commission can employ enforcement proceedings when violations and omissions of the Act's provisions occur. The compliance with these requirements is mandatory. The reporting requirements are found at 18 CFR 46.3.

ACTION: The Commission is requesting a three-year extension of the current expiration date, with no changes to the existing collection of data.

BURDEN STATEMENT: Public reporting burden for this collection is estimated as:

Number of respondents annually (1)	Number of responses per respondent (2)	Averge burden hours per response (3)	Total annual burden hours (1)×(2)×(3)
175	1	6	1,050 hours.

The estimated total cost to respondents is $55,260, (1,050 hours divided by 2,087 hours per year per employee times $109,889 per year per average employee = $55,260). The cost per respondent is $316.

The reporting burden includes the total time, effort, or financial resources expended to generate, maintain, retain, disclose, or provide the information including: (1) Reviewing instructions; (2) developing, acquiring, installing, and utilizing technology and systems for the 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.

The estimate of cost for respondents is based upon salaries for professional and clerical support, as well as direct and indirect overhead costs. Direct costs include all costs directly attributable to providing this information, such as administrative costs and the cost for information technology. Indirect or overhead costs are costs incurred by an organization in support of its mission. These costs apply to activities which benefit the whole organization rather than any one particular function or activity.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) 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) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–2812 Filed 2–4–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–195–000]

CNG Transmission Corporation; Notice of Application

January 30, 1998.

Take notice that on January 22, 1998, CNG Transmission Corporation (CNG), 445 West Main Street, Clarksburg, West Virginia, 26301, filed an application pursuant to Section 7(b) of the Natural Gas Act for an order permitting and approving the abandonment of the No. 2 Engine at the Helvetia Compressor Station (Engine No 2), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

CNG proposes to abandon its Engine No. 2 at CNG's Helvetia Compressor Station located in Brady Township, Clearfield County, PA. CNG asserts that due to a decline in the production of natural gas in the area surrounding the Helvetia Station, the abandonment proposal herein will not result in the loss of any service to any of CNG's customers. CNG further asserts that the abandonment of this facility will result in the elimination of operating and maintenance costs of this engine unit.

Any person desiring to be heard or to protest with reference to said application should on or before February 20, 1998, file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that the issuance of certificate authorization and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for CNG to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–2794 Filed 2–4–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–895–000]

Enserch Energy Services, Inc.; Notice of Issuance of Order

January 30, 1998.

Enserch Energy Services, Inc. (Enserch) filed an application for authorization to engage in wholesale power sales at market-based rates, and for certain waivers and authorizations. In particular, Enserch requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liabilities by Enserch. On January 29, 1998, the Commission issued an Order

Accepting For Filing Proposed Market-Based Rates (Order), in the above-docketed proceeding.

The Commission's January 29, 1998 Order granted the request for blanket approval under Part 34, subject to the conditions found in Ordering Paragraphs (C), (D), and (F):

(C) Within 30 days after the date of issuance of this order, any person desiring to be heard or to protest the Commission's blanket approval of issuances of securities or assumptions of liabilities by Enserch should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211 and 385.214.

(D) Absent a request to be heard within the period set forth in Ordering Paragraph (C) above, Enserch is hereby authorized to issue securities and assume obligations and liabilities as guarantor, indorser, surety or otherwise in respect of any security of another person; provided that such issue or assumption is for some lawful object within the corporate purposes of Enserch, compatible with the public interest, and reasonably necessary or appropriate for such purposes.

(F) The Commission reserves the right to modify this order to require a further showing that neither public nor private interests will be adversely affected by continued Commission approval of Enserch's issuances of securities or assumptions of liabilities. * * *

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is March 2, 1998.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, N.E., Washington, D.C. 20426.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–2810 Filed 2–4–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–366–008]

Florida Gas Transmission Company; Notice of Intent To Make Supplemental Refunds

January 30, 1998.

Take notice that on January 27, 1998, Florida Gas Transmission Company (FGT) tendered for filing a letter stating that FGT will make additional refunds, inclusive of interest, to FGT's transportation customers on or before February 15, 1998.

FGT states that on January 14, 1998, it submitted a refund report reflecting amounts refunded to its transportation customers on December 15, 1997 in compliance with the Commission Order dated September 24, 1997 in the referenced docket. Subsequent to filing the refund report, it has come to FGT's attention it inadvertently failed to calculate refunds related to: (1) the transportation component of the cash-out price applicable to net delivery point overage imbalances pursuant to the cash-out mechanism of Section 14 of the General Terms and Conditions (GTC) of FGT's Tariff, and (2) reservation charge credits resulting from a one-time shortening of the gas day of April 6, 1997 due to FGT's implementation of Gas Industry Standards Board (GISB) Standard 1.3.1.

FGT states that because the data necessary to calculate the refunds attributable to cash-out pricing are contained in different files than the transportation invoice data (applied to scheduled volumes), the calculation of these amounts, while small, is more complex and will require some additional programming. FGT states that it has begun this process and believes that it can make refunds to Delivery Point Operators (for cash-out imbalances) and to transportation customers (for the reservation charge credit related to the shortened gas day) on or before February 15, 1998. FGT will calculate interest on these additional amounts through the date the checks are mailed and will file a supplemental refund report within 30 days of the date the additional refunds are made.

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 Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such protests should be filed on or before February 6, 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 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. 98–2802 Filed 2–4–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–49–001]

K N Wattenberg Transmission Limited Liability Company; Notice of Application

January 30, 1998.

Take notice that on January 23, 1998, K N Wattenberg Transmission Limited Liability Company (K N Wattenberg), P.O. Box 281304, Lakewood, Colorado 80228–8304, filed in Docket No. CP98–49–001, pursuant to Section 7(c) of the Natural Gas Act and Part 157, Subpart E, of the Commission's Regulations, an amendment to its pending application in Docket No. CP98–49–000, in which K N Wattenberg requests authorization to acquire, construct and operate certain pipeline and related facilities designated as the Front Runner Pipeline, all as more fully set forth in the application on file with the Commission and open to public inspection.

In its amended filing, K N Wattenberg is requesting that the application be considered under the Commission's optional certificate (OC) regulations. In accordance with the OC regulations, K N Wattenberg has redesignated its rates to bear the full risk of subscription for the project and will abide by all other conditions required for an OC certificate. The amendment proposes no other changes to K N Wattenberg's pending application in this proceeding.

Any person desiring to be heard or to make any protest with reference to said application should, on or before February 20, 1998, file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. The Commission's rules require that protestors provide copies of their protests to the party or parties directly involved. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

A person obtaining intervenor status will be placed on the service list maintained by the Secretary of the

Commission and will receive copies of all documents filed by the applicant and by every one of the intervenors. An intervenor can file for rehearing of any Commission order and can petition for court review of any such order. However, an intervenor must submit copies of comments or any other filings it makes with the Commission to every other intervenor in the proceeding, as well as an original and 14 copies with the Commission.

A person does not have to intervene, however, in order to have comments considered. A person, instead, may submit two copies of comments to the Secretary of the Commission. Commenters will be placed on the Commission's environmental mailing list, will receive copies of environmental documents and will be able to participate in meetings associated with the Commission's environmental review process. Commenters will not be required to serve copies of filed documents on all other parties. However, commenters will not receive copies of all documents filed by other parties or issued by the Commission and will not have the right to seek rehearing or appeal the Commission's final order to a federal court.

The Commission will consider all comments and concerns equally, whether filed by the commenters or those requesting intervenor status.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for K N Wattenberg to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–2793 Filed 2–4–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–197–000]

Koch Gateway Pipeline Company; Notice of Request Under Blanket Authorization

January 30, 1998.

Take notice that on January 23, 1998, Koch Gateway Pipeline Company (Koch Gateway), P.O. Box 1478, Houston, Texas 77251–1478, filed in Docket No. CP98–197–000 a request pursuant to Sections 157.205, and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.216) for approval to abandon an inactive and obsolete dual 8-inch meter station, under the blanket certificate issued in Docket No. CP82–430–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Koch Gateway proposes to abandon by removal an inactive, skid mounted dual 8-inch meter located at an interconnect with Transcontinental Gas Pipeline Corporation (Transco) an interstate gas pipe line company in Pike County, Mississippi. Koch Gateway states that they maintain a number of other meters at this interconnect which are adequate to measure the flow of natural gas between Transco and Koch Gateway. No services will be affected by the proposed abandonment. The retired meter will be treated as scrap material.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–2795 Filed 2–4–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–198–000]

NorAm Gas Transmission Company; Notice of Request Under Blanket Authorization

January 30, 1998.

Take notice that on January 23, 1998, NorAm Gas Transmission Company Name (NGT), 1600 Smith Street, Houston, Texas 77002, filed a request with the Commission in Docket No. CP98–198–000, pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to operate existing natural gas facilities to be delivered to M.G. Industries (MGI) authorized in blanket certificate issued in Docket Nos. CP82–384–000 and CP82–384–001, all as more fully set forth in the request on file with the Commission and open to public inspection.

NGT proposes to operate an existing 1,584 feet on 2-inch pipe, a 2-inch delivery tap and metering and regulating station on NGT's Line J in Mississippi County, Arkansas to provide firm transportation service to an MGI, an industrial customer. The estimated volumes to be delivered through these facilities are 45,625 MMBtu annually and 125 MMBtu on a peak day.

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. 98–2796 Filed 2–4–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–202–000]

NorAm Gas Transmission Company; Notice of Request Under Blanket Authorization

January 30, 1998.

Take notice that on January 27, 1998, NorAm Gas Transmission Company (NGT), 1600 Smith Street, Houston, Texas 77002, filed in Docket No. CP98–202–000 a request pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211) for authorization to construct and operate certain facilities in Arkansas to deliver gas to ARKLA, a distribution division of NorAm Energy Corp. (ARKLA), under NGT's blanket certificate issued in Docket No. CP82–384–000 and CP82–384–001 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

NGT proposes to install a 1-inch tap and regulator on its Line BT–14 in Conway County, Arkansas to provide increased service to ARKLA's rural distribution system. NGT states that the total estimated volumes to be delivered to these facilities are 900 MMBtu annually and 3 MMBtu on a peak day. NGT estimates the total cost of the project to be $2,248, and that ARKLA will reimburse NGT an estimated $1,908 of those costs.

NGT states that it will transport gas to ARKLA and provide service under its tariff, that the volumes delivered are within ARKLA's certificated entitlement and NGT's tariff does not prohibit the addition of new delivery points. NGT also states that it has sufficient capacity to accomplish the deliveries without detriment or disadvantage of its other customers.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–2798 Filed 2–4–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–1336–000]

Northern Indiana Public Service Company; Notice of Filing

January 30, 1998.

Take notice that on January 7, 1998, Northern Indiana Public Service Company, tendered for filing an executed Standard Transmission Service Agreement for Non-Firm Point-to-Point Transmission Service between Northern Indiana Public Service Company and Delmarva Power & Light Company.

Under the Transmission Service Agreement, Northern Indiana Public Service Company will provide Point-to-Point Transmission Service to Delmarva Power & Light Company pursuant to the Northern Indiana Public Service Company's pursuant to the Northern Indiana Public Service Company's Open Access Transmission Service Tariff. Northern Indiana Public Service Company has requested that the Service Agreement be allowed to become effective as of January 1, 1998.

Copies of this filing have been sent to the Indiana Utility Regulatory Commission and the Indiana Office of Utility Consumer Counselor.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with the 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 and protests should be on or before February 12, 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. 98–2807 Filed 2–4–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–201–000]

Northwest Pipeline Corporation; Notice of Application

January 30, 1998.

Take notice that on January 26, 1998, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah, 84108, filed in Docket No. CP98–201–000, an application, under Sections 7(b) and 7(c) of the Natural Gas Act (NGA) and Part 157 of the Commission's Regulations for authority to install replacement pipeline and remove and abandon existing pipeline. Northwest says that the project is needed to ensure a long-term safety and integrity of its mainline transmission system by relocating its pipeline away from an area prone to landslides near Everson, Whatcom County, Washington. The details of Northwest's requests are more fully set forth in the application which is on file with the Commission and available to the public.

Specifically, Northwest Seeks

(1) A certificate of public convenience and necessity authorizing the construction and operation of about 3,850 feet of new 26-inch and 3,950 feet of new 30-inch replacement pipeline in new right-of-way and

(2) Permission and approval for the removal and abandonment or abandonment in-place of approximately 2,910 feet of existing 26-inch and about 2,940 feet of existing 30-inch pipeline (about 1,350 feet each of existing 26-inch and 30-inch pipeline will be removed and abandoned, about 1,560 feet of existing 26-inch and about 1,590 feet of existing 30-inch pipeline will be abandoned in-place).

Northwest states the total costs to construct the proposed replacement pipeline and abandon the existing pipeline segments are estimated at about $2,305,000.

Any person desiring to be heard or making any protest with reference to said application should on or before February 20, 1998, fill with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, D.C. 20426, a motion to intervene or a protest

in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to take but will not serve to make the protestants parties to the proceeding. The Commission's rules require that protestors provide copies of their protests to the party or person to whom the protests are directed. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

A person obtaining intervenor status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents issued by the Commission, filed by the applicant, or filed by all other intervenors. An intervenor can file for rehearing of any Commission order and can petition for court review of any such order. However, an intervenor must serve copies of comments or any other filing it makes with the Commission to every other intervenor in the proceeding, as well as filing an original and 14 copies with the Commission.

A person does not have to intervene, however, in order to have comments considered. A person, instead, may submit two copies of such comments to the Secretary of the Commission. Commenters will be placed on the Commission's environmental mailing list, will receive copies of environmental documents, and will be able to participate in meetings associated with the Commission's environmental review process. Commenters will not be required to serve copies of filed documents on all other parties. However, commenters will not receive copies of all documents filed by other parties or issued by the Commission, and will not have the right to seek rehearing or appeal the Commission's final order to a Federal court. The Commission will consider all comments and concerns equally, whether filed by commenters or those requesting intervenor status.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the NGA and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on these applications if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Northwest to appear or be represented at the hearing.

Lindwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–2797 Filed 2–4–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice

January 30, 1998.

Take notice that on February 12, 1998 at 10:00 a.m. at the Commission's headquarters at 888 First Street, NE., Washington, DC 20426, Southern Company Services, Inc. (''Southern Company'') will provide a demonstration for the Commission, its staff, and the public about the transmission reservation and scheduling process followed by the Southern Company system. Mr. Jolly Hayden of Electric Clearinghouse, Inc., an electric power marketer unaffiliated with Southern Company, will participate in the demonstration. The purpose of the demonstration is to show how bulk power transactions are reserved and scheduled on the Southern Company system.

Mr. John Pope, Director of Bulk Power Operations for Southern Company, will convene the demonstration. Mr. Hayden of Electric Clearinghouse will demonstrate the steps performed by the marketing function in the reservation and scheduling process. Other Southern Company personnel may also participate.

Members of the public are invited to observe the demonstration.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–2808 Filed 2–4–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT98–13–000]

Tennessee Gas Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

January 30, 1998.

Take notice that on January 28, 1998, Tennessee Gas Pipeline Company (Tennessee) tendered for filing and acceptance the following: (1) Electronic Data Interchange (EDI) Trading Partner Agreement (TPA) between Tennessee and TransCapacity Limited Partnership (TransCapacity); (2) an EDI TPA between Tennessee and National Capacity Registry Service Corporation (National Capacity); (3) an agency authorization agreement for EDI (Agency Agreement) between Gaslantic Corporation, TransCapacity, and Tennessee, and/or Midwestern Gas Transmission Company (Midwestern) and/or East Tennessee Natural Gas Company (East Tennessee) and (4) Fifth Revised Sheet No. 301 and Fifth Revised Sheet No. 412 of Tennessee's FERC Gas Tariff, Fifth Revised Volume No. 1 (Volume No. 1 Tariff) to become effective October 17, 1997.

Tennessee states that on October 17, 1997, TransCapacity and Tennessee entered into a trading partner agreement (TransCapacity TPA) which governs all EDI transactions between the parties. On January 2, 1998, Tennessee entered into an identical trading partner agreement with National Capacity (National Capacity TPA). Tennessee states that these two TPAs contain provisions which differ from the Pro Forma TPA for several reasons: (1) the TransCapacity TPA and National Capacity TPA differ from the Pro Forma TPA because they reflect TransCapacity's and National Capacity's status as third-party providers of EDI transactions only, rather than as shippers on Tennessee's system as contemplated by the Pro Forma TPA; (2) the TransCapacity TPA and National Capacity TPA contain provisions which differ from the Pro Forma TPA due to formatting changes made by mutual agreement of the parties; and (3) the TransCapacity TPA and the National Capacity TPA reflect very minor typographic changes.

Tennessee states that in connection with the TransCapacity TPA, Gaslantic Corporation, TransCapacity and Tennessee and/or Midwestern and/or East Tennessee entered into an Agency Agreement on November 7, 1997 (Gaslantic Agency Agreement).

Tennessee states that pursuant to the Gaslantic Agency Agreement, Gaslantic assigned certain electronic communication, linkage services and related administrative responsibilities to TransCapacity for the term of one month beginning November 15, 1997 and continuing on a month-to-month basis thereafter until terminated. Tennessee states that the Gaslantic Agency Agreement differs from the Pro Forma Agency Agreement in only one area: the Gaslantic Agency Agreement provides that TransCapacity will have responsibility for the data sets identified in Exhibit I to the Gaslantic Agency Agreement, rather than for the data sets identified in Exhibit A to the TransCapacity TPA.

Tennessee states that due to an administrative oversight, Tennessee did not file the TransCapacity TPA, National Capacity TPA and Gaslantic Agency Agreement with the Commission prior to their contractual effective dates. Tennessee requests all waivers of the Commission's regulations that may be necessary to allow this filing to become effective on October 17, 1997. Tennessee states that an effective date of October 17, 1997 is consistent with the effective date for the TransCapacity TPA and would be prior to the contractual effective date for the National Capacity TPA and Gaslantic Agency Agreement.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.214 and Section 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before February 6, 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. 98–2799 Filed 2–4–98; 8:45 am]

BILLING CODE 6117–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–118–000]

Texas Eastern Transmission Corporation; Notice of Request for Waiver of FERC Gas Tariff

January 30, 1998.

Take notice that on January 27, 1998, Texas Eastern Transmission Corporation (Texas Eastern) tendered for filing a request for waiver of Section 1, Availability, of Rate Schedule SCT (Small Customer Transportation) included in Texas Eastern's FERC Gas Tariff, Sixth Revised Volume No. 1 to provide service to the Village of East Cape Girardeau, Illinois and Surrounding areas.

Texas Eastern states that, although Texas Eastern does not intend to expand generally the availability of Rate Schedule SCT service, Texas Eastern believes a waiver is warranted based on the facts in this instance. Texas Eastern states that East Cape Girardeau does not currently receive gas service and Texas Eastern is the closest and only economically available source of pipeline capacity to serve East Cape Girardeau and surrounding areas. Texas Eastern states that since the volume of service requested is de minimus compared to Texas Eastern's aggregate capacity entitlements, Texas Eastern's existing customers will not be detrimentally impacted.

Texas Eastern requests that the Commission approves this request for waiver on or before April 1, 1998, in order to provide certainty that natural gas service will be available to East Cape Girardeau and surrounding areas commencing on November 1, 1998 when the next heating season begins.

Texas Eastern states that copies of its filing have been served on all firm customers of Texas Eastern 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 3785.211 and 385.214 of the Commission's Rules of Practice and Procedure. All such motions or protests must be filed on or before February 6, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the Protestants parties to the proceeding. Any person wishing to become a party 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. 98–2804 Filed 2–4–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–344–000]

Texas Gas Transmission Corporation; Notice of Informal Settlement Conference

January 30, 1998.

Take notice that an informal settlement conference will be convened in the above-captioned proceeding at 10:00 a.m. on Thursday, February 5, 1998, reconvening at 10:00 a.m. on Friday, February 6, 1998, at the offices of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C., for the purpose of exploring the possible settlement of the above-referenced docket.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined in 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214) prior to attending.

For additional information please contact Michael D. Cotleur at (202) 208–1076, or Russell B. Mamone at (202) 208–0744.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–2803 Filed 2–4–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–119–000]

Viking Gas Transmission Company; Notice of Filing

January 30, 1998.

Take notice that on January 27, 1998, Viking Gas Transmission Company (Viking) tendered for filing a report of penalty revenues and credits for the period of November 1, 1996 through October 31, 1997.

Viking states that copies of the filing have been mailed to all of its jurisdictional customers and to affected state regulatory 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, 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 February 6, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party 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. 98–2805 Filed 2–4–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–120–000]

Viking Gas Transmission Company; Notice of Filing

January 30, 1998.

Take notice that on January 27, 1998, Viking Gas Transmission Company (Viking) tendered for filing a report of interruptible throughput and revenues for the period of November 1, 1996 through October 31, 1997. Viking also states that Viking did not have sufficient net interruptible revenues during that period to trigger an obligation under Article 5, Section 4 of Viking's Rate Schedule IT, to credit net interruptible revenues to Viking's firm shippers.

Viking states that copies of the filing have been mailed to all of its jurisdictional customers and to affected state regulatory 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, 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 February 6, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party 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. 98–2806 Filed 2–4–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP93–541–009]

Young Gas Storage Company, Ltd.; Notice of Petition to Amend

January 30, 1998.

Take notice that on January 26, 1998, Young Gas Storage Company, Ltd. (Young), Post Office Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP93–541–009, a petition to further amend the authorizations issued on June 22, 1994 in Docket Nos. CP93–541–000 and 001, pursuant to Section 7(c) of the Natural Gas Act, as amended, all as more fully set forth set forth in the application which is on file with the Commission and open to public inspection.

Young states that upon further study and data gained in the development of the storage field, certain changes to well requirements and minor facility adjustments are needed to continue development and management of Young Storage Field. Specifically, Young seeks authorization to connect the Young #40 observation well to the Young gathering system and to change this well classification from an observation well to an injection/withdrawal well.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 20, 1998, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the Young to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–2792 Filed 2–4–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC98–26–000, et al.]

Northrop Grumman Corporation, et al.; Electric Rate and Corporate Regulation Filings

January 29, 1998.

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

1. Northrop Grumman Corporation

[Docket No. EC98–26–000]

Take notice that on January 23, 1998, Northrop Grumman Corporation (Northrop Grumman) tendered for filing an application pursuant to Section 203 of the Federal Power Act requesting that the Commission approve a disposition of jurisdictional facilities occurring as a consequence of the merger of Northrop Grumman with Lockheed Martin Corporation.

Comment date: February 23, 1998, in accordance with Standard Paragraph E at the end of this notice.

2. Seneca Power Partners, L.P.

[Docket No. EG98–34–000]

On January 20, 1998, Seneca Power Partners, L.P., 450 Lexington Avenue, 37th Floor, New York, NY 10017 (Seneca), filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

Seneca owns a cogeneration facility with a capacity of approximately 37 MW, located in Batavia, New York.

Comment date: February 19, 1998, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

3. Pennsylvania-New Jersey-Maryland Interconnection

[Docket No. ER97–3189–010]

Take notice that on December 31, 1997, pursuant to the Commission's order in Pennsylvania-New Jersey-Maryland Interconnection, *et al.*, FERC ¶ 61,257 (1997), PJM Interconnection, L.L.C. (PJM), tendered for filing Service Agreements For Network Integration Transmission Service for Atlantic City Electric Company, Baltimore Gas & Electric Company, Metropolitan Edison Company, Pennsylvania Electric Company, PP&L, Inc., PECO Energy Company, Potomac Electric Power Company, and Public Service Electric & Gas Company.

PJM requests an effective date of April 1, 1998 for the service agreements.

Comment date: February 13, 1998, in accordance with Standard Paragraph E at the end of this notice.

4. Pennsylvania-New Jersey-Maryland Interconnection

[Docket No. ER97–3189–011]

Take notice that on December 31, 1997, PJM Interconnection, L.L.C. (PJM), tendered for filing, pursuant to the Commission's order in Pennsylvania-New Jersey-Maryland Interconnection, *et al.*, 81 FERC ¶ 61,257 (1997), compliance filing consisting of: (a) A revised PJM Open Access Transmission Tariff, (b) PJM Standards of Conduct, (c) a revised PJM Operating Agreement, and (d) a revised PJM Reliability Assurance Agreement.

Comment date: February 13, 1998, in accordance with Standard Paragraph E at the end of this notice.

5. TransCurrent, LLC.

[Docket No. ER98–1297–000]

Take notice that on January 5, 1998, TransCurrent, LLC. (TransCurrent), petitioned the Commission for acceptance of TransCurrent Rate Schedule FERC No. 1; the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of certain Commission regulations.

TransCurrent intends to engage in wholesale electric power and energy purchases and sales as a marketer (trading). TransCurrent is not in the business of generating or transmitting electric power. TransCurrent is owned by private investors.

Comment date: February 12, 1998, in accordance with Standard Paragraph E at the end of this notice.

6. Illinois Power Company

[Docket No. ER98–1298–000]

Take notice that on January 5, 1998, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing firm and non-firm transmission agreements under which Griffin Energy Marketing, Inc. will take transmission service pursuant to its open access transmission tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of December 29, 1997.

Comment date: February 12, 1998, in accordance with Standard Paragraph E at the end of this notice.

7. Illinois Power Company

[Docket No. ER98–1299–000]

Take notice that on January 5, 1998, Illinois Power Company (IP), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing a summary of its activity for the third quarter of 1997, under its Market Based Power Sales Tariff, FERC Electric Tariff, Original Volume No. 7.

Comment date: February 12, 1998, in accordance with Standard Paragraph E at the end of this notice.

8. Consolidated Edison Company of New York, Inc.

[Docket No. ER98–1300–000]

Take notice that on January 5, 1998, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing a Supplement to its Rate Schedule, Con Edison Rate Schedule FERC No. 130, a facilities agreement with the New York Power Authority (NYPA). The Supplement provides for a decrease in the monthly carrying charges. Con Edison has requested that this decrease take effect as of August 1, 1997.

Con Edison states that a copy of this filing has been served by mail upon NYPA.

Comment date: February 12, 1998, in accordance with Standard Paragraph E at the end of this notice.

9. Consolidated Edison Company of New York, Inc.

[Docket No. ER98–1301–000]

Take notice that on January 5, 1998, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing a Supplement to its Rate Schedule, Con Edison Rate Schedule FERC No. 129, a facilities agreement with Orange and Rockland Utilities, Inc. (O&R). The Supplement provides for an increase in the monthly carrying charges.

Con Edison states that a copy of this filing has been served by mail upon O&R.

Comment date: February 12, 1998, in accordance with Standard Paragraph E at the end of this notice.

10. Consolidated Edison Company of New York, Inc.

[Docket No. ER98–1302–000]

Take notice that on January 5, 1998, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing a Supplement to Con Edison Rate Schedule FERC No. 128, the PARS Facilities Agreement under which Con Edison is responsible for the purchase, installation, operation, and maintenance of phase angle regulators at the Branchburg-Ramapo Interconnection between the New York Power Pool (NYPP) and the Pennsylvania-New Jersey-Maryland (PJM) Interconnection. Con Edison has requested waiver of notice requirements so that the charges under the Supplement can be made effective as of August 1, 1997.

Con Edison states that a copy of this filing has been served by mail upon NYPP and PJM.

Comment date: February 12, 1998, in accordance with Standard Paragraph E at the end of this notice.

11. Delmarva Power & Light Company

[Docket No. ER98–1303–000]

Take notice that on January 5, 1998, Delmarva Power & Light Company, tendered for filing executed umbrella service agreements with Allegheny Power and Stand Energy Corporation under Delmarva's market rate sales tariff, FERC Electric Tariff, Original Volume No. 14, filed by Delmarva in Docket No. ER96–2571–000.

Comment date: February 12, 1998, in accordance with Standard Paragraph E at the end of this notice.

12. OGE Energy Resources, Inc.

[Docket No. ER98–1304–000]

Take notice that on January 5, 1998, OGE Energy Resources, Inc. (OERI), tendered for filing a letter approving membership in the Western Systems Power Pool (WSPP). OERI requests that the Commission amend the WSPP Agreement to include it as a member.

OERI requests an effective date of January 7, 1998, for the proposed amendment. Accordingly, OERI requests waiver of the Commission's notice requirements for good cause shown.

Copies of the filing were served upon the WSPP Executive Committee.

Comment date: February 12, 1998, in accordance with Standard Paragraph E at the end of this notice.

13. Northern States Power Company (Minnesota Company); Northern States Power Company (Wisconsin Company)

[Docket No. ER98–1306–000]

Take notice that on January 6, 1998, Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin) (collectively known as NSP), tendered for filing an Electric Service Agreement between NSP and The City of Barron, WI (Customer). This Electric Service Agreement is an enabling agreement under which NSP may provide to Customer the electric services identified in NSP Operating Companies Electric Services Tariff original Volume No. 4. NSP requests that this Electric Service Agreement be made effective on December 10, 1997.

Comment date: February 12, 1998, in accordance with Standard Paragraph E at the end of this notice.

14. California Independent System Operator Corporation

[Docket No. ER98–1308–000]

Take notice that on December 30, 1997, the California Independent System Operator Corporation (ISO), tendered for filing a Participating Generator Agreement executed by the ISO and Midway Sunset Cogeneration Company for approval by the Commission.

The ISO states that this filing has been served on all parties listed on the official service list in the above referenced dockets, including the California Public Service Commission.

Comment date: February 12, 1998, in accordance with Standard Paragraph E at the end of this notice.

15. Western Resources, Inc.

[Docket No. ER98–1314–000]

Take notice that on December 31, 1997, Western Resources, Inc., tendered for filing revised firm transmission agreements between Western Resources and Utilicorp dba Missouri Public Service. Western Resources states that the purpose of the revised agreements is to clarify the actual points of receipt and delivery and specify which ancillary services are being provided.

Copies of the filing were served upon Utilicorp dba Missouri Public Service and the Kansas Corporation Commission.

Comment date: February 12, 1998, in accordance with Standard Paragraph E at the end of this notice.

16. Western Resources, Inc.

[Docket No. ER98–1315–000]

Take notice that on December 31, 1997, Western Resources, Inc., tendered for filing a revised firm transmission agreement between Western Resources and Koch Power Services, Inc. Western Resources states that the purpose of the revised agreement is to clarify the actual points of receipt and delivery and specify which ancillary services are being provided.

Copies of the filing were served upon Koch Power Services, Inc. and the Kansas Corporation Commission.

Comment date: February 12, 1998, in accordance with Standard Paragraph E at the end of this notice.

17. Western Resources, Inc.

[Docket No. ER98–1316–000]

Take notice that on December 31, 1997, Western Resources, Inc., tendered for filing revised firm transmission agreements between Western Resources and Western Resources Generation Services. Western Resources states that the purpose of the revised agreements is to clarify the actual points of receipt and delivery and specify which ancillary services are being provided.

Copies of the filing were served upon Western Resources Generation Services and the Kansas Corporation Commission.

Commission date: February 12, 1998, in accordance with Standard Paragraph E at the end of this notice.

18. Western Resources, Inc.

[Docket No. ER98–1317–000]

Take notice that on December 31, 1997, Western Resources, Inc., tendered for filing revised firm transmission agreements between Western Resources and Duke/Louis Dreyfus L.L.C. Western Resources states that the purpose of the revised agreements is to clarify the actual points of receipt and delivery and specify which ancillary services are being provided.

Copies of the filing were served upon Duke/Louis Dreyfus L.L.C. and the Kansas Corporation Commission.

Comment date: February 12, 1998, in accordance with Standard Paragraph E at the end of this notice.

19. Public Service Company of Colorado

[Docket No. ER98–1318–000]

Take notice that on January 6, 1998, Public Service Company of Colorado (PS Colorado), tendered for filing a Notice of Cancellation of a Contract for Interconnection and Transmission Service between PS Colorado and Platte River Power Authority (Platte River).

PS Colorado requests that this cancellation become effective on January 1, 1998.

Comment date: February 12, 1998, in accordance with Standard Paragraph E at the end of this notice.

20. FirstEnergy Corp. and Pennsylvania Power Company

[Docket No. ER98–1319–000]

Take notice that on January 6, 1998, FirstEnergy Corp. tendered for filing on behalf of itself and Pennsylvania Power Company, Service Agreements for Network Integration Service under the Pennsylvania Retail Pilot with CNG Retail Services Corp. (d.b.a. Peoples Plus), Horizon Energy Company, Strategic Energy Ltd., PP&L, Inc., DTE Co.-Energy, L.L.C., West Penn Power (d.b.a. Allegheny Power), and New Energy Ventures, L.L.C. pursuant to the FirstEnergy System Open Access Tariff. These Service Agreements will enable the parties to obtain Network Integration Service under the Pennsylvania Retail Pilot in accordance with the terms of the Tariff.

Comment date: February 12, 1998, in accordance with Standard Paragraph E at the end of this notice.

21. Cargill-Alliant, L.L.C.

[Docket No. ER98–1320–000]

Take notice that on January 6, 1998, Cargill-Alliant, L.L.C., tendered for filing a Notice of Succession.

Comment date: February 12, 1998, in accordance with Standard Paragraph E at the end of this notice.

22. Atlantic City Electric Company; Baltimore Gas and Electric Company; Delmarva Power & Light Company; Jersey Central Power & Light Company; Metropolitan Edison Company; Pennsylvania Electric Company; PP&L, Inc.; Potomac Electric Power Company; Public Service Electric and Gas Company

[Docket No. ER98–1581–000]

Take notice that on December 31, 1997, Atlantic City Electric Company, Baltimore Gas and Electric Company, Delmarva Power & Light Company, Jersey Central Power & Light Company, Metropolitan Edison Company, Pennsylvania Electric Company, PP&L, Inc., Potomac Electric Power Company, and Public Service Electric and Gas Company (collectively, Supporting Companies) filed proposed amendments to Schedule 1 of the Operating Agreement of PJM Interconnection, L.L.C. to implement Fixed Transmission Rights auctions and to implement a multi-settlement system.

Supporting Companies request an effective date of April 1, 1998, or such

later date as the PJM Office of the Interconnection is able to implement the proposals.

Supporting Companies state that copies of the filing have been served on the regulatory commissions of Delaware, the District of Columbia, Maryland, New Jersey, Pennsylvania and Virginia.

Comment date: February 13, 1998, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–2813 Filed 2–4–98; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP96–809–000, et al. and CP96–810–000]

Maritimes & Northeast Pipeline, L.L.C.; Notice of Availability of the Draft Environmental Impact Statement for the Proposed Maritimes Phase II Project

January 30, 1998.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared this draft environmental impact statement (DEIS) on the natural gas pipeline facilities proposed by Maritimes & Northeast Pipeline, L.L.C. in the above-referenced dockets and referred to as the Maritime Phase II Project.

The staff prepared the DEIS to satisfy the requirements of the National Environmental Policy Act. The staff concludes that approval of the proposed project, with appropriate mitigating measures as proposed and recommended, would have limited adverse environmental impact.

The DEIS assesses the potential environmental effects of construction and operation of the following facilities in Maine:

- A total of about 347.0 miles of pipeline, consisting of 200.1 miles of 24- and 30-inch-diameter mainline between Westbrook in York County and Woodland (Baileyville) in Washington County, and five laterals totaling 146.9 miles of 4- to 16-inch-diameter pipeline;
- About 31,160 horsepower of new compression at two new compressor stations;
- Twelve new meter stations; and
- Associated aboveground facilities, including 35 block valves.

The purpose of the proposed facilities would be to transport 440,000 thousand cubic feet per day of natural gas to existing and new natural gas markets in Maine and the northeast. These natural gas supplies would come from new reserves being developed in offshore Nova Scotia, Canada.

Comment Procedure

Written Comments

Any person wishing to comment on the DEIS may do so. Please follow these instructions carefully to ensure that your comments are received in time and properly recorded:

- Reference Docket Nos. CP96–809–000 *et al.*;
- Send two copies to: Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Room 1A, Washington, DC 20426;
- Label one copy of the comments for the attention of the Environmental Review and Compliance Branch II, PR 11.2;
- Mail your comments so that they will be received on or before March 23, 1998.

Public Meeting Schedule

Three public meetings to receive comments on the DEIS will be held at the following times and locations:

Date	Time	Location
Tuesday, March 10, 1998.	7:00 p.m	Harrison Middle School Cafeteria, McCartney Street (off West Elm Street), Yarmouth, ME (207) 846–2499.
PLEASE NOTE: The location of the Yarmouth Meeting has changed from that given in the DEIS.		
Wednesday, March 11, 1998.	7:00 p.m	Gardiner Regional Junior High, School Cafeteria, 161 Cobbossee Avenue, Gardiner, ME (207) 582–1326.
Thursday, March 12, 1998.	7:00 p.m	Bangor High School Auditorium, 885 Broadway, Bangor, ME (207) 941–6200.

Interested groups and individuals are encouraged to attend and present oral comments on the environmental impacts described in the DEIS. Anyone who would like to speak at the public meetings may get on the speakers list by signing up at the public meetings. Priority will be given to persons representing groups. Transcripts will be made of the meetings.

After these comments are reviewed, any significant new issues are investigated, and modifications are made to the DEIS, a final environmental impact statement (FEIS) will be published and distributed. The FEIS will contain the staff's responses to timely comments received on the DEIS.

The DEIS has been placed in the public files of the FERC and is available for public inspection at: Federal Energy Regulatory Commission, Public Reference and Files Maintenance Branch, 888 First Street, NE., Washington, DC 20426 (202) 208–1371.

A limited number of copies are available at this location.

Copies of the DEIS have been mailed to Federal, state, and local agencies, public interest groups, interested individuals, newspapers, and parties to this proceeding. Any person may file a motion to intervene on the basis of the Commission staff's DEIS (see 18 CFR 380.106 and 385.214). You do not need intervenor status to have your comments considered.

Additional information about the proposed project is available from Paul McKee in the Commission's Office of External Affairs, at (202) 208–1088.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–2809 Filed 2–4–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Amendment of Exemption

January 30, 1998.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Amendment of Exemption.

b. *Project No.:* 4055–024.

c. *Date Filed:* October 7, 1996, March 3, 1997, and December 29, 1997.

d. *Applicant:* Vernon F. Ravenscroft.

e. *Name of Project:* Ravenscroft Ranch Project.

f. *Location:* On the Malad River in Gooding County, Idaho.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. § 791(a)–825(r).

h. *Applicant Contact:* Mr. Vernon Ravenscroft, HC60, Box 1469, Bliss, ID 83314, (208) 837–4936.

i. *FERC Contact:* Paul Shannon, (202) 219–2866.

j. *Comment Date:* March 16, 1998.

k. *Description of Filing:* Vernon F. Ravenscroft filed an application for amendment of exemption to increase the height of the project's penstock intake structure by two feet to help prevent ice build-up near the intake. The exemptee also proposes to increase the height of the project's spillway by six inches to increase the operating water surface level in the project's canal and stabilize river bypass flows during low flows. The exemptee states the increased spillway height will not affect high water levels at the upstream diversion dam. The higher water levels in the canal will affect lands owned or leased by the exemptee and lands on a right-of-way obtained from the U.S. Bureau of Land Management.

1. This notice also consists of the following standard paragraphs: B, C1, and D2.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C1. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–2800 Filed 2–4–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Intent To File an Application for a Subsequent License

January 30, 1998.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of filing:* Notice of Intent to File An Application for a Subsequent License.

b. *Project No.:* 6058.

c. *Date filed:* January 15, 1998.

d. *Submitted By:* Hydro Development Group, Inc., current licensee.

e. *Name of Project:* Hailesboro #4 Hydroelectric Project.

f. *Location:* On the Oswegatchie River, in St. Lawrence County, New York.

g. *Filed Pursuant to:* 18 CFR Section 16.19 of the Commission's regulations.

h. *Effective date of current license:* January 1, 1953.

i. *Expiration date of current license:* December 31, 2002.

j. *The project consists of:* (1) Two concrete dams spanning the river and connecting to a small island, comprising; (a) a 92-foot-long, 14.3-foot-high dam with 22-inch-high flash boards; (b) a 58-foot-long, 5-foot-high dam with 2-foot-high flash boards; (2) a 2-acre reservoir; (3) a 200-foot-long, 22-foot-high canal; (4) a powerhouse containing two generating unit with a total installed capacity of 1,490 kW; (5) a 23 kV transmission line; and (6) appurtenant facilities.

k. Pursuant to 18 CFR 16.19, information on the project is available at: Hydro Development Group, Inc., c/o CHI Energy, Inc., P.O. Box 58, Route 12F, Airport Road, Dexter, NY 13634, (315) 639–6700.

l. *FERC contact:* Tom Dean (202) 219–2778.

m. Pursuant to 18 CFR Sections 16.9 and 16.20 each application for a new or subsequent license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by December 31, 2000.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–2801 Filed 2–4–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM95–9–005]

Open Access Same-time Information System (OASIS) and Standards of Conduct; Notice of Filing of Industry Report on the Future of OASIS and Request for Comments

January 30, 1998.

On November 3, 1997, the Commercial Practices Working Group (Commercial Practices Group) and the OASIS How Working Group (How Group) jointly submitted a report to the Commission entitled ''Industry Report to the Federal Energy Regulatory Commission on the Future of OASIS.'' The report responds to a Commission request to the electric industry to provide a report outlining the requirements for OASIS Phase 2 requirements by providing what is described as a coordinated action plan for the future development of OASIS. The Commercial Practices Group and How Group state that they jointly prepared the report and that the report was intended to represent a broad base of perspectives from diverse segments of the electric industry.

The report is available for public review and inspection during normal business hours in the Commission's Public Reference Room, Room 2A, 888 First Street, N.E., Washington, D.C. 20426. The report is also available for review and downloading on the Commission Issuance Posting System (CIPS), an electronic bulletin board service, that provides access to the texts of formal documents issued by the Commission. The Industry's Phase 2 report can be found under the file name ''RM95–9L.EXE'', the date of the file is November 20, 1997, and its title is ''Industry Report on the Future of OASIS.'' The report is in WordPerfect 6.1 format and is contained in a self extracting file.

CIPS is available at no charge to the user. CIPS can be accessed over the Internet by pointing your browser to the URL address: http://www.ferc.fed.us. Select the link to CIPS. CIPS also may be accessed using a personal computer with a modem by dialing 202–208–1397, if dialing locally, or 1–800–856–3920, if dialing long distance. To access CIPS in this manner, set your communications software to 19200, 14400, 12000, 9600, 7200, 4800, 2400, or 1200 bps, full duplex, no parity, 8 data bits and 1 stop bit. CIPS user assistance is available at 202–208–2474.

The complete text on diskette in WordPerfect format may be purchased from the Commission's copy contractor, La Dorn Systems Corporation. La Dorn Systems Corporation is located in the Public Reference Room at 888 First Street, N.E., Washington, D.C. 20426.

We invite written comments on this report within 60 days of the date of issuance of this notice in accordance with the instructions below.

Instructions for Filing Written Comments

Written comments (an original and 14 paper copies and one copy on a computer diskette in WordPerfect 6.1 format or in ASCII format) must be received by the Commission on or before [insert date 60 days from the date of issuance of this notice]. Comments must be filed with the Office of the Secretary and must contain a caption that references Docket No. RM95–9–005. All written comments will be placed in the Commission's public files and will be available for inspection or copying in the Commission's Public Reference Room during normal business hours. All comments received on diskette will be made available to the public on the Commission's electronic bulletin board (EBB).

ADDRESSES: Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT:

Marvin Rosenberg (Technical Information), Office of Economic Policy, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, (202) 208–1283

William C. Booth (Technical Information), Office of Electric Power Regulation, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, (202) 208–0849

Gary D. Cohen (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426 (202) 208–0321.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–2811 Filed 2–4–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Notice of Issuance of Decisions and Orders by the Office of Hearings and Appeals; Week of October 20 Through October 24, 1997

During the week of October 20 through October 24, 1997, the decisions and orders summarized below were issued with respect to appeals, applications, petitions, or other requests filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E–234, Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C. 20585–0107, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management*: *Federal Energy Guidelines*, a commercially published loose leaf reporter system. Some decisions and orders are available on the Office of Hearings and Appeals World Wide Web site at http://www.oha.doe.gov.

Dated: January 27, 1998.

George B. Breznay,

Director, Office of Hearings and Appeals.

Department of Energy

Office of Hearings and Appeals

[Decision List No. 56]

Week of October 20 Through October 24, 1997

Personnel Security Hearing

Personnel Security Hearing, 10/20/97, *[VSO–0155]*

An OHA Hearing Officer issued an Opinion regarding the eligibility of an individual to maintain access authorization under the provisions of 10 CFR Part 710. The Hearing Officer found that the individual used an illegal drug, cocaine, based on the positive test result of a random drug screening conducted by the National Guard. The Hearing Officer found that additional security concerns were raised by the fact that the Individual had used cocaine after signing a drug certification in which he promised not to use drugs while holding an access authorization. The Hearing Officer found the Individual had not mitigated these security concerns and recommended that the individual's access authorization not be restored.

Refund Application

Certainteed Corporation, 10/20/97, *[RC272–345, RC272–353]*

The Department of Energy rescinded two crude oil refunds granted to CertainTeed Corp. because of the waiver signed by the firm in the Surface Transporters (ST) proceeding. The DOE rejected the firm's argument that it was not bound by the waiver since the DOE had granted its request to dismiss its ST claim and process its crude oil refund application. However, in view of the unique circumstances of this case, the DOE decided not to require the repayment of the larger of the two refunds.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Dale V. Hunt	RJ272–48	10/24/97
Empire Manufacturing Co.	RK272–03956	10/24/97
Gerber Products Co. et al	RK272–03188	10/24/97
Homes of Merit, Inc	RC272–00371	10/24/97
Homes of Merit, Inc	RK272–4587	

Homes of Merit, Inc	RJ272–00046	
Mary Ann Haman et al	RK272–01897	10/20/97
Royce & Gerald Woolfolk et al	RK272–04047	10/20/97
Shirley E. Smith	RJ272–49	10/24/97
Speck Cab Co., Inc	RK272–04651	10/20/97
Transit Mix Concrete & Materials Co	RK272–04625	10/20/97
Tuscarora Incorp	RK272–04636	10/20/97

Dismissals

The following submissions were dismissed.

Name	Case No.
GRA–PAT Gulf Mini Mart	RR300–291
Yellow Cab of Dallas, Inc	RK272–04578

[FR Doc. 98–2839 Filed 2–4–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Notice of Issuance of Decisions and Orders by the Office of Hearings and Appeals; Week of October 6 Through October 10, 1997

During the week of October 6 through October 10, 1997, the decisions and orders summarized below were issued with respect to appeals, applications, petitions, or other requests filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E–234, Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C. 20585–0107, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system. Some decisions and orders are available on the Office of Hearings and Appeals World Wide Web site at http://www.oha.doe.gov.

Dated: January 27, 1998.

George B. Breznay,

Director, Office of Hearings and Appeals.

Department of Energy

Office of Hearings and Appeals

[Decision List No. 54]

Week of October 6 Through October 10, 1997

Appeal

Dennis Kirson, 10/6/97, VFA–0333

Dennis Kirson (Kirson) filed an Appeal from a determination issued to him by the Albuquerque Operations Office (AL) of the Department of Energy (DOE). In his Appeal, Kirson asserted that AL improperly withheld a document listing the potential Reduction-in-Force affected positions at AL pursuant to Exemption 5 of the FOIA. After reviewing the document, the DOE determined that AL had properly applied Exemption 5 to most of the information in the document but that a small portion of the document, consisting of segregable factual material, could be released. Consequently, Kirson's Appeal was granted in part.

Personnel Security Hearing

Personnel Security Hearing, 10/10/97, VSO–0148

An Office of Hearings and Appeals Hearing Officer issued an opinion recommending restoration of the security clearance of an individual whose clearance had been suspended because the Department had obtained derogatory information that fell within 10 CFR § 710.8(l). In reaching his conclusion, the Hearing Officer found that while the individual had trespassed, the entire record indicated that he was not dishonest and untrustworthy. In addition, the Hearing Officer found that inconsistencies the individual told the police were overcome by his honesty to DOE security once a security investigation was started. The Hearing Officer concluded that the individual is sufficiently honest, reliable and trustworthy within the meaning of 10 CFR § 710.8(l) to hold an access authorization.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Bob Shaefer et al	RK272–1984	10/10/97
Crude Oil Supple	RB272–00120	10/6/97
Crude Oil Supple	RB272–00121	10/6/97
Crude Oil Supple	RB272–00122	10/7/97
Excavating & Painting Co. et al	RK272–1840	10/8/97
Gibson Drilling Co.	RJ272–47	10/9/97
Mary F. Gibson	RK272–4644	
Kenneth L. Gibson	RK272–4645	
Harold Walter et al	RK272–01737	10/7/97
Holverson Farming Assoc et al	RK272–01921	10/7/97
I. Neuman & Sons, Inc. et al	RK272–04575	10/8/97
Kentucky-American Water Co. et al	RF272–94751	
Lois A. Ronan et al	RK272–04627	10/10/97
Moog Enterprises et al	RK272–02569	10/9/97
Vessels Gas Processing Co./Petroleum Trading & Transport	RF354–00006	10/6/97

Dismissals

The following submissions were dismissed.

Name	Case No.
Karen Coleman-Wiltshire	VFA–0325

[FR Doc. 98–2840 Filed 2–4–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Notice of Issuance of Decisions and Orders by the Office of Hearings and Appeals; Week of December 1 through December 5, 1997

During the week of December 1 through December 5, 1997, the decisions and orders summarized below were issued with respect to appeals, applications, petitions, or other requests filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E–234, Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C. 20585–0107, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines,* a commercially published loose leaf reporter system. Some decisions and orders are available on the Office of Hearings and Appeals World Wide Web site at http://www.oha.doe.gov.

Dated: January 27, 1998.

George B. Breznay,

Director, Office of Hearings and Appeals.

Department of Energy

Office of Hearings and Appeals

[Decision List No. 62]

Week of December 1 through December 5, 1997

Appeal

Glen M. Jameson, 12/2/97

[VFA–0345]

Glen M. Jameson filed an Appeal from a determination that the Office of Headquarters Procurement Services (PS) of the Department of Energy (DOE) issued to him on September 17, 1997. In that determination, PS identified a responsive document, but concluded that portions of this document were exempt from mandatory disclosure pursuant to Exemption 4 of the FOIA. In his Appeal, Mr. Jameson contended that the disclosure of the requested information is not likely to impair the Government's ability to obtain similar information in the future and that its disclosure is not likely to cause substantial harm to the competitive position of the submitter, PAI Corporation. The DOE found that release of the requested information is likely to cause competitive harm to the submitter under Exemption 4. However, the DOE remanded the matter to PS for further segregation and release of possibly non-exempt material. Consequently, the Appeal filed by Mr. Jameson was granted as set forth in the Decision and Order and denied in all other respects.

Refund Applications

Atlantic Richfield Company/Major Oil, Inc. K.C. Distributing, Inc., 12/2/97

[RF304–15508; RF304–15509]

The DOE found that firms having common ownership had filed applications in the ARCO special refund proceeding without revealing their relationship. The DOE found that the two firms should have been considered together in calculating the amount of their refunds. The DOE rescinded the refunds in part and directed the firms to refund the amount of the excessive refund.

Philippine Airlines, Inc., 12/5/97

[RG272–01075]

The DOE granted an Application for Refund filed on behalf of Philippine Airlines, Inc., in the crude oil overcharge refund proceeding conducted under 10 CFR part 205, Subpart V. The DOE found that Philippine Airlines is the proper party to receive the refund. The Philippine Government had also claimed the refund by arguing that it had owned the stock of Philippine Airlines during the refund period. The DOE found that Philippine Airlines has been in business continually since the refund period and, as a corporation, is entitled to the refund regardless of who owns the corporate stock.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

CITY OF SANTA PAULA ET AL	RF272–96352	12/5/97
CRUDE OIL SUPPLE REF DIST	RB272–00127	12/5/97
CRYSTAL, INC. ET AL	RK272–03055	12/2/97
OZINGA BROS. INC. ET AL	RK272–4529	12/5/97
RICHARD B. GENTRY ET AL	RK272–1966	12/5/97

Dismissals

The following submissions were dismissed.

NAME	CASE NO.
PERSONNEL SECURITY HEARING	VSO–0175
T & T LEASING CORP.	RK272–04686
WISCONSIN ELECTRIC POWER CO.	RK272–04713

[FR Doc. 98–2841 Filed 2–4–98; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5962–2]

Agency Information Collection Activities: Proposed Collection; Comment Request; Evaluation of the Burden of Waterborne Disease Within Communities in the United States

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit the following continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB):

Evaluation of the burden of waterborne disease within communities in the United States. EPA ICR Number: 1727.02. OMB Control Number: 2080–0050. Current expiration date: July 31, 1998. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before April 6, 1998.

ADDRESSES: US EPA, National Health and Environmental Effects Research Laboratory, Human Studies Division, Epidemiology and Biomarkers Branch, Mail Drop 58–A, Research Triangle Park, North Carolina 27711.

FOR FURTHER INFORMATION CONTACT: Interested persons may obtain a copy of the ICR without charge by contacting: Dr. Elizabeth Hilborn at: (919) 966–0658—telephone, (919) 966–7584—fax, hilborn.e@epamail.epa.gov—E-mail, or by mailing request (address above).

SUPPLEMENTARY INFORMATION:

Affected entities: Entities potentially affected by this action are those which are served by a community water system.

Title: Evaluation of the burden of waterborne disease within communities in the United States. (OMB Control No. 2080–0050; EPA ICR No.:1727.02) expiring 7/31/98.

Abstract: The proposed study will be conducted by the Epidemiology and Biomarkers Branch, Human Studies Division, National Health and Environmental Effects Research Laboratory, Office of Research and Development, US EPA. Participation in this collection of information is strictly voluntary. The Branch will conduct a feasibility study of water utilities and a health study of individuals served by targeted drinking water utilities.

Drinking water utilities serving populations greater than 15,000 will be asked to provide information on the utility and results of monitoring activities. The information will be used to assess the feasibility of conducting an environmental health study to evaluate the burden of water-borne disease in the community it serves. A utility representative will be interviewed to gather information on: miles of distribution pipe, storage capacity, quantity of source water, the availability of the previous year's monitoring records, and the utilities' willingness to participate. The water utility will provide annual reports describing the monthly mean and range: water temperature, turbidity, particle counts, pH, color, total and fecal coliforms, heterotrophic plate count, total organic carbon, chlorine residual (free and total), total organic halides, total trihalomethanes, total haloacetic acids, viruses, *Giardia*, and *Cryptosporidium*.

In the health studies, approximately 1000 households will be randomly selected from each community. Eligibility for households to participate will include residence of one or more children between the ages of two and ten years as children are the most sensitive population for illnesses of interest. We expect that each household has, on the average 2.2 members for a total of approximately 2200 individuals participating in each study. Demographic information and a short health history will be requested from household members at the beginning of each study. A representative from each household will be asked to fill out a monthly health questionnaire for each family member for a total of eighteen months. The monthly health information requested includes a checklist for upper respiratory illness, gastrointestinal illness, fever, and severity of illness. Care will be taken to maintain participant confidentiality; this work is mandated by the Safe Drinking Water Act of 1996.

The information will be used to estimate the burden of waterborne disease in communities within the United States (US). Health data obtained from the household checklists will be compared with the corresponding monitoring data at the water utility to determine whether any increase in symptoms is associated with higher levels of contaminants. Overall illness rates will be measured. Specific relationships between microorganisms and disease may be developed by linking microorganisms found in the water with those found in symptomatic people.

The information is being collected as part of a research program to support the Office of Water in estimating the burden of waterborne disease in the US as mandated under the Safe Drinking Water Act Amendments of 1996, section 1458. This study will also provide information on the level of disease associated with microorganisms found in the drinking water. The information could potentially be used by other laboratories in the Office of Research and Development such as the National Risk Management Laboratory (Cincinnati) and the National Exposure Research Laboratory (Cincinnati). The information may also be used in comparison analyses by scientists in government or academia who are conducting similar types of studies. There is no maintenance of records required under this ICR.

Burden Statement: Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Feasibility Study:

Respondent activities	Burden hours @ $25.00/hr	Frequency	Costs (dollars)
1. Read questionnaire instructions	0.05	1	1.25
2. Gather information	0.50	1	12.50
3. Complete questionnaire	0.50	1	12.50
4. Return questionnaire as requested	0.05	1	1.25
Total	1.10	4	27.50

Annual Reporting Burden: Hr. total (1.10) × No. of Respondents (400) = 440 hrs.
Annual Cost: Cost total ($27.50) × No. of Respondents (400) = $11,000.00.
No Annual Recordkeeping Burden:
Health Study:

Respondent activities	Burden hours @ $10.00/hr	Frequency hour	Total	Costs (dollars)
1. Read questionnaire instruction	0.10	9	0.9	9.00
2. Gather information from family members	0.25	9	2.25	22.50
3. Record information biweekly	0.10	18	1.80	18.00

Respondent activities	Burden hours @ $10.00/hr	Frequency hour	Total	Costs (dollars)
4. Return questionnaire monthly	0.05	9	0.45	4.50
Total	0.50	45	5.40	54.00

Annual Reporting Burden: Hr. total (5.4) × No. of Respondents (1000) = 5,400 hrs.

Annual Cost: Cost total ($54.00) × No. of Respondents (1000) = $54,000.00.

No Annual Recordkeeping Burden.

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 48 CFR Chapter 15.

The EPA would like to solicit comments to:

(i) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) 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;

(iii) enhance the quality, utility, and clarity of the information to be collected; and

(iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Dated: January 16, 1998.

Hillel S. Koren,

Director, Human Studies Division, Office of Research and Development/NHEERL.

[FR Doc. 98–2880 Filed 2–4–98; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collections Being Reviewed by the Federal Communications Commission Under Delegated Authority 5 CFR 1320, Comments Requested

January 30, 1998.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated information techniques or other forms of information technology.

DATES: Written comments should be submitted on or before April 6, 1998. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Judy Boley, Federal Communications Commission, Room 234, 1919 M St., N.W., Washington, DC 20554 or via internet to jboley@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Judy Boley at 202–418–0214 or via internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0609.

Title: Section 76.934(e), Petitions for extension of time.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; state, local or tribal governments.

Number of Respondents: 35. (25 petitioners + 10 local franchise authorities (''LFAs'')).

Estimated Time Per Response: 4 hours.

Total Annual Burden: 140 hours, calculated as follows: We estimate that small cable systems will annually submit 25 petitions for extension of time, with approximately 15 of the petitions being addressed to the Commission and 10 being addressed to LFAs. We estimate that the average burden to small cable systems to file each petition is 4 hours and that the average burden to LFAs to review each petition is 4 hours. 25 petitions filed × 4 hours = 100 hours. 10 LFA reviews of petitions × 4 hours = 40 hours.

Total Annual Cost to Respondents: Postage and photocopying expenses for each petition are estimated at $2 per filing. 25 × $2 = $50.

Needs and Uses: Section 76.934(e) states that small cable systems may obtain an extension of time to establish compliance with rate regulations provided that they can demonstrate that timely compliance would result in severe economic hardship. Requests for extension of time should be addressed to the local franchising authority (''LFA'') concerning rates for basic service and equipment and to the Commission concerning rates for a cable programming service tier and associated equipment. The information collected from entities will be used by the Commission and LFAs to grant temporary relief to small systems who demonstrate a need for an extension of time to come into compliance with rate regulation.

OMB Control Number: 3060–0610.

Title: Section 76.958, Notice to Commission of rate change while complaint is pending.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 400.

Estimated Time Per Response: .5 hours.

Total Annual Burden: 200 hours. Annually, we estimate that cable operators will be required to notify the Commission of proposed cable service tier rate increases during the Commission reviews of pending rate complaints an estimated 400 times. The estimated average burden to make each

notification is .5 hours. 400 notifications × .5 = 200 hours.

Needs and Uses: Section 76.958 states that a regulated cable operator that proposes to change any rate while a cable service tier rate is pending before the Commission shall provide the Commission at least 30 days notice of the proposed change. The information will be used by the Commission to ensure that regulated cable operators give the appropriate notice to the Commission concerning proposed rate changes while they have cable service tier complaints pending before the Commission.

OMB Control Number: 3060–0570.

Title: Section 76.982, Continuation of Rate Agreements.

Type of Review: Extension of a currently approved collection.

Respondents: State or local governments.

Number of Respondents: 25.

Estimated Time Per Response: .5 hours.

Total Annual Burden to Respondents: We estimate that 25 notifications are annually filed by franchising authorities who wish to continue to regulate rates under existing rate agreements. The average burden on franchising authorities is .5 hours per notification. 25 notifications × .5 hours = 12.5 hours (rounded up to 13 hours).

Total Annual Cost to Respondents: Postage and stationery expenses are estimated to be $1 for each filing. 25 notifications × $1 = $25.

Needs and Uses: Section 76.982 provides that franchise authorities who were regulating basic cable rates pursuant to a rate agreement executed before July 1, 1990, may continue to regulate rates during the remainder of the agreement. Franchise authorities must notify the Commission of their intentions to continue regulating rates under the rate agreement. These new requirements ensure that cable subscribers nationwide enjoy the rates that would be charged by cable systems operating in a competitive environment. These notifications enable the Commission to determine the extent of rate regulation agreements that pre-date the 1992 Cable Act and that are still in effect.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

[FR Doc. 98–2833 Filed 2–4–98; 8:45 am]

BILLING CODE 6712–10–P

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2253]

Petitions for Reconsideration and Clarification of Action in Rulemaking Proceedings

February 2, 1998.

Petitions for reconsideration and clarification have been filed in the Commission's rulemaking proceedings listed in this Public Notice and published pursuant to 47 CFR Section 1.429(e). The full text of these documents are available for viewing and copying in Room 239, 1919 M Street, N.W., Washington, D.C. or may be purchased from the Commission's copy contractor, ITS, Inc. (202) 857–3800. Oppositions to these petitions must be filed February 19, 1998. See Section 1.4(b)(1) of the Commission's rule (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Royston and Commerce, GA).

Number of Petitions Filed: 1.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

[FR Doc. 98–2832 Filed 2–4–98; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

AGENCY: Federal Election Commission.

Date and Time: Tuesday, February 10, 1998 at 10:00 a.m.

Place: 999 E Street, N.W., Washington, D.C.

Status: This meeting will be closed to the public.

Items to be Discussed:

Compliance matters pursuant to 2 U.S.C. § 437g.
Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.
Matters concerning participation in civil actions or proceedings or arbitration.
Internal personnel rules and procedures or matters affecting a particular employee.

Date and Time: Wednesday, February 11, 1998 at 10:00 a.m.

Place: 999 E Street, N.W., Washington, D.C. (ninth floor).

Status: This hearing will be open to the public.

Matter Before the Commission: Notice of Proposed Rulemaking regarding Recordkeeping and Reporting Regulations.

Date and Time: Thursday, February 12, 1998 at 10:00 a.m.

Place: 999 E Street, N.W., Washington, D.C. (ninth floor).

Status: This meeting will be open to the public.

Items To Be Discussed:

Future Meeting Dates.
Correction and Approval of Minutes.
Advisory Opinion 1997–27: Congressman John Boehner and Friends of John Boehner by counsel, Jan Witold Baran.
Advisory Opinion 1997–28: W. Ben Bius.
Advisory Opinion 1997–29: Green Party of New Mexico by Tammy Davis and Rick Lass, Co-Chairs.
Audit: San Diego Host Committee/Sail to Victory '96 (continued from meeting of January 22, 1998).
Audit: Committee on Arrangements for the 1996 Republican National Convention (continued from meeting of January 22, 1998).
Petition for Rulemaking Filed by James Bopp, Jr., on Behalf of the James Madison Center for Free Speech.
Soft Money: Draft Notice of Proposed Rulemaking.
Administrative Matters.

Person to Contact for Information: Mr. Ron Harris, Press Officer, Telephone: (202) 219–4155.

Marjorie W. Emmons,

Secretary of the Commission.

[FR Doc. 98–3012 Filed 2–3–98; 1:01 pm]

BILLING CODE 6715–01–M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984.

Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, N.W., Room 962. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 202–010689–072.

Title: Transpacific Westbound Rate Agreement.

Parties:

American President Lines, Ltd.
APL Co. PTE Ltd.
Hapag-Lloyd Container Linie GmbH
Kawasaki Kisen Kaisha, Ltd.
A.P. Moller-Maersk Line
Mitsui O.S.K. Lines, Ltd.

Neptune Orient Container Line, Ltd.

Nippon Yusen Kaisha Ltd.

Orient Overseas Container Line, Inc.

P&O Nedlloyd Limited

P&O Nedlloyd B.V.

Sea-Land Service, Inc.

Synopsis: The proposed modification would authorize the parties to enter into individual service contracts, including confidential service contracts, on those commodities both exempt from tariff filing and on which the Agreement has ''opened'' the rates. The parties also may enter into individual service contracts limited to dry cargo, subject to agreement guidelines, and filed in Agreement Essential Terms tariffs.

By Order of the Federal Maritime Commission.

Dated: January 30, 1998.

Ronald D. Murphy,

Assistant Secretary.

[FR Doc. 98–2756 Filed 2–4–98; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR part 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, D.C. 20573.

Leader Mutual Freight System Inc. (U.S.A.), 8411 S. La Cienega Blvd., Inglewood, CA 90301, Officer: Allen Cheng, President

Ocean's Freight, Inc., 4210 NW 35th Court, Miami, FL 33142, Officer: Luis Miguel Boscan, President

Axis Freight Forwarding, 3400 N. Hwy. 17–92, Longwood, FL 32750, Karen Kazma, Sole Proprietor

U.S. Sigo Inc., 8016 NW 68th Street, Miami, FL 33166, Officer: Roman Martinez, President.

Dated: February 2, 1998.

Joseph C. Polking,

Secretary.

[FR Doc. 98–2821 Filed 2–4–98; 8:45 am]

BILLING CODE 6730–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Savannah River Site Environmental Dose Reconstruction Project—Phase II: Public Workshops

The National Center for Environmental Health (NCEH) of the Centers for Disease Control and Prevention (CDC) and the Radiological Assessments Corporation announce the following workshops.

Name: Savannah River Site Environmental Dose Reconstruction Project—Phase II: Public Workshops.

Date: Tuesday, February 24, 1998.

Time: 7 p.m.–9 p.m.

Place: Holiday Inn Coliseum, 630 Assembly Street, Columbia, South Carolina 29201.

Tel: 803/799–7800.

Date: Wednesday, February 25, 1998.

Time: 7 p.m.–9 p.m.

Place: Holiday Inn Express, 155 Colony Parkway, Aiken, South Carolina 29803.

Tel: 803/648–0999.

Date: Thursday, February 26, 1998.

Time: 7 p.m.–9 p.m.

Place: Holiday Inn Midtown, 7100 Abercorn Street, Savannah, Georgia 31406.

Tel: 912/352–7100.

Status: Open to the public, limited only by the space available. The meeting rooms accommodate approximately 50 people.

Background

Under a Memorandum of Understanding (MOU) signed in December 1990 with DOE, replaced by an MOU signed in 1996, the Department of Health and Human Services (HHS) was given the responsibility and resources for conducting analytic epidemiologic investigations of residents of communities in the vicinity of DOE facilities, workers at DOE facilities, and other persons potentially exposed to radiation or to potential hazards from non-nuclear energy production use. HHS has delegated program responsibility to CDC.

In addition, an MOU was signed in October 1990 and renewed in November 1992 between ATSDR and DOE. The MOU delineates the responsibilities and procedures for ATSDR's public health activities at DOE sites required under sections 104, 105, 107, and 120 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or ''Superfund''). These activities include health consultations and public health assessments at DOE sites listed on, or proposed for, the Superfund National Priorities List and at sites that are the subject of petitions from the public; and other health-related activities such as epidemiologic studies, health surveillance, exposure and disease registries, health education, substance-specific applied research, emergency response, and preparation of toxicological profiles.

Purpose

The Savannah River Site (SRS) Dose Reconstruction Project supports research which evaluates past releases of radioactive materials and chemicals from the SRS to the surrounding environment. The CDC and the Radiological Assessments Corporation are conducting a study of the SRS to determine whether past nuclear materials production caused offsite health effects. Phase I of the study involved the most comprehensive review of records ever undertaken at any of the U.S. weapons facilities. Phase II, to be completed in the fall of 1998, uses information from Phase I to estimate past releases of radionuclides and chemicals from the SRS. The research team has also analyzed the offsite environmental measurements of these materials performed since the early 1950s.

This series of public meetings will present the study results to date, and will provide an opportunity for individuals to comment on the research and to provide any new information concerning past SRS operations. Public input and the promise to provide clear and easily obtained sources of public information are important parts of this study. Newsletters are being published regularly that provide updates on the progress of the research and fact sheets, highlighting specific research topics, are being released as well. Individuals with information of possible value to the study are encouraged to attend public workshops. All public workshops will be held in South Carolina and Georgia, and will be announced in newsletters.

Agenda items are identical for each meeting and are subject to change as priorities dictate.

Contact Persons for More Information

Paul G. Renard, Project Officer, Radiation Studies Branch, Division of Environmental Hazards and Health Effects, NCEH, CDC, 4770 Buford Highway, NE, M/S F–35, Atlanta, Georgia 30341–3724, telephone 770/488–7040, fax 770/488–7044.

Dated: January 29, 1998.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 98–2818 Filed 2–4–98; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

National Institute for Occupational Safety and Health; Draft Document ''Review of NIOSH Report to Congress on Workers' Home Contamination Study Conducted Under the Workers' Family Protection Act (29 U.S.C. 671a)''

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (DHHS).

ACTION: Request for comments.

SUMMARY: NIOSH is seeking public comments on the draft document ''Review of NIOSH Report to Congress on Workers' Home Contamination Study conducted under the Workers' Family Protection Act (29 U.S.C. 671a)'', provided in this announcement. The Workers' Family Protection Task Force was chartered in 1994 to review the NIOSH Report and to make recommendations to Congress for a research agenda that federal agencies might implement to investigate the types and magnitude of workplace-transported (''take-home'') exposures and their potential adverse consequences among workers' family members. This document represents the Task Force's commentary on the NIOSH Report, identifies gaps in current knowledge of take-home exposures and related health effects, and presents a prioritized agenda for federally-sponsored research. In particular, comments are being sought regarding additional data needs not identified by the Task Force and comments on the recommended investigative strategy proposed by the Task Force for use in meeting data gaps.

DATES: Written comments to this notice should be submitted to Diane Miller, NIOSH Docket Office, 4676 Columbia Parkway, Mailstop C–34, Cincinnati, Ohio 45226. Comments must be received on or before April 6, 1998. Comments may also be submitted by email to: dmm2@cdc.gov as WordPerfect 5.0, 5.1/5.2, 6.0/6.1, or ASCII files.

FOR FURTHER INFORMATION CONTACT: Technical information may be obtained from Elizabeth Whelan, 4676 Columbia Parkway, Mailstop R–15, Cincinnati, Ohio 45226, telephone 513–841–4437.

SUPPLEMENTARY INFORMATION: The following is the complete text of the draft document for public comment ''Review of NIOSH Report to Congress on Workers' Home Contamination Study conducted under the Workers' Family Protection Act (29 U.S.C. 671a)'' and the NIOSH response to the Task Force report.

SUMMARY: At the request of the U.S. Congress, the Centers for Disease Control and Prevention's National Institute for Occupational Safety and Health (NIOSH) issued a report in 1995 entitled: ''Report to Congress on Workers' Home Contamination Study Conducted Under the Workers' Family Protection Act.'' This Report was prepared in response to the 1992 Workers' Family Protection Act (Pub. L. 102–522, 29 U.S.C. 671) which included a request to NIOSH to conduct a study to ''evaluate the potential for, prevalence of, and issues related to the contamination of workers' homes with hazardous chemicals and substances * * * transported from the workplaces of such workers.''

The NIOSH Report chronicled the history of workplace-transported exposures and associated health risks worldwide, primarily during the 20th century. The approach taken by NIOSH was to describe health hazards associated with readily identifiable agents that have unambiguous routes of exposure, that is, intentional transport of workplace materials, contamination of workers' clothing or external body surfaces (skin, hair), family members visiting the workplace, improper storage of hazardous agents, and as a result of cottage industries.

The Workers' Family Protection Task Force was chartered in 1994 to review the NIOSH Report and to make recommendations to Congress for a research agenda that federal agencies might implement to investigate the types and magnitude of workplace-transported (''take-home'') exposures and their potential adverse consequences among workers' family members. This document represents the Task Force's commentary on the NIOSH Report, identifies gaps in current knowledge of take-home exposures and related health effects, and presents a prioritized agenda for federally-sponsored research.

The Task Force noted that the NIOSH Report covered a wide range of literature, largely describing conditions that occurred during the 1930s–1960s. Prominent examples of take-home hazards from the workplace included poisoning from lead and beryllium, and exposure to asbestos. The Task Force noted that the Report appeared to cover available literature in a thorough manner. However, much of the literature represents anecdotal accounts of hazardous take-home exposures and subsequent illness in workers' family members. No comprehensive studies have documented the effectiveness of current workplace control programs for preventing the transport of toxic substances into homes. In addition, there is a conspicuous absence of systematic research regarding the extent of the problem and therefore no quantification of the burden of disease caused by these exposures or the burden that is likely to occur in future years. The Task Force also noted an inadequate discussion of two categories of exposure, infectious agents transmitted in biological fluids and radioactive substances.

The Task Force noted the presence of important gaps in knowledge that hinder a clear understanding of the magnitude of take-home exposures and potentially associated health consequences. For example, information is lacking on the types and levels of take-home exposures that are currently occurring in the U.S., the size and demographic composition of the populations at risk for exposure, types of illnesses associated with take-home exposures, and adequacy of exposure control methods in the workplace and in the home. Some states have reporting systems for recognized potential take-home toxicants such as lead. However, even in such surveillance systems, reporting suffers from incompleteness and lack of standardization. With these knowledge gaps, it is currently not possible to estimate the magnitude of the public health threat created by take-home exposures, nor is it possible to predict the future risks that will occur from transported toxic agents. Difficulties in determining potential hazards will likely increase in the future as new materials are introduced into the workplace.

To address deficiencies in knowledge on take-home exposures, the Task Force recommends the following prioritized Research Agenda for which funding could be provided from federal and other governmental sources and, in some cases, from the private sector:

- Characterization of the extent of home contamination with recognized workplace toxicants, including, but not restricted to: toxic metals (e.g., lead, beryllium), pesticides, and dusts (e.g., asbestos);
- Identification of populations at greatest risk of exposure to known and suspected take-home toxicants;
- Assessment of adverse health effects potentially related to take-home exposures, including considerations of previously established adverse effects and newer or less well-studied associations, such as the consequences

of transmitting infectious agents and radioactive substances into the home;

- Identification of previously unrecognized toxic exposures that potentially place workers' family members at risk for health impairment; and
- Assessment of the effectiveness of take-home exposure prevention and remediation methods, including decontamination procedures.

The Task Force recommends that this proposed Research Agenda be given full consideration by NIOSH under the Institute's National Occupational Research Agenda (NORA). The Task Force also noted that existing federal statutes apply to take-home contamination in a narrow manner, either because of substance-specific language or restrictive enforcement priorities. Moreover, the Workers' Family Protection Act (WFP Act) did not anticipate revisions to the existing statutory authority of the federal agencies that may be involved in take-home contamination issues. None will be needed if federal and State agencies take advantage of their existing statutory authority to promulgate and enforce standards and regulations that are responsive to the hazardous conditions identified by the Research Agenda developed by this Task Force. Revision of these statutes to authorize the prevention and remediation of take-home contamination, especially through revision of the prioritization schemes used by governmental agencies, such as the Environmental Protection Agency, should be considered by Congress only if the agencies find it difficult to respond effectively to the Research Agenda.

Introduction

At the request of the U.S. Congress, the Centers for Disease Control and Prevention's National Institute for Occupational Safety and Health issued a report in 1995 entitled: ''Report to Congress on Workers' Home Contamination Study Conducted Under the Workers' Family Protection Act.'' This report (henceforth referred to as the ''NIOSH Report'') was prepared in response to the 1992 Workers' Family Protection Act (Public Law 102–522, 29 U.S.C. 671) which included a request to NIOSH to conduct a study to ''evaluate the potential for, prevalence of, and issues related to the contamination of workers' homes with hazardous chemicals and substances * * * transported from the workplaces of such workers.''

The NIOSH Report chronicled the history of workplace-transported exposures and associated health risks worldwide, primarily during the 20th century. The approach taken by NIOSH was to describe health hazards associated with readily identifiable agents that have unambiguous routes of exposure, that is, intentional transport of workplace materials, contamination of workers' clothing or external body surfaces (skin, hair), family members visiting the workplace, improper storage of hazardous agents, and as a result of cottage industries. Prominent toxic exposures included beryllium, asbestos, lead, and pesticides for which clear evidence of exposure-related sequelae had been established. Reports of exposures and risks from other agents, such as asthmagens, estrogenic substances, and infectious agents, were generally more sporadic in the literature and thus received less attention. Methods to control exposures at the workplace and in the home were also summarized and linked to specific agents.

The Workers' Family Protection Task Force was chartered in 1994 to review the NIOSH Report and to make recommendations to Congress for a research strategy that federal agencies might implement to investigate the types and magnitude of workplace-transported (''take-home'') exposures and their potential adverse consequences among workers' family members.

Purpose

This document represents the Task Force's commentary on the NIOSH Report, identifies gaps in current knowledge of take-home exposures and related health effects, and presents a prioritized agenda for federally-sponsored research. Development of a Research Agenda to address exposure and health hazards potentially posed by take-home exposures was the Task Force's principal objective. A final section of this report is devoted to legal and policy considerations. This section was included by the Task Force to assist the Secretary of Labor in fulfilling the requirements specified under subsection (d) of the Workers' Family Protection Act, notably to assess the information developed under subsection (c) of the Act in determining additional enforcement and regulatory needs.

Commentary on the NIOSH Report

The NIOSH Report contains a substantial amount of information culled from the available literature, primarily published reports in medical and industrial hygiene journals. Additional reports of take-home incidents were solicited from federal and State health, labor, and environmental agencies. As the authors of the Report acknowledge, there are substantial limitations in the available literature. An important limitation is that U.S. reporting systems for sentinel exposures and health outcomes are limited to lead and pesticides. Moreover, the Report notes that community clinicians may not recognize diseases that result from take-home exposures because they fail to obtain relevant information on family members' occupations. Systematically-obtained data on exposure types and levels for most agents are lacking, even for lead and pesticides which have been the subject of considerable focus. Additionally, the Report acknowledged that much of the literature summarized pertains to exposure conditions that occurred during the 1930s–1960s, and, therefore, may have limited relevance to contemporary home and work environments. The Task Force agrees that these limitations exist.

In general, the Task Force found the Report to be a comprehensive review of episodes of toxicity for the agents that fit the criterion of having a clearly recognizable transported exposure route. However, the scope of the problem of take-home exposures seems to be too narrowly defined in some instances. For example, the nuclear industry has documented cases of various radionuclides carried home on workers clothing, shoes, or on other items (e.g., tools) that are brought home from the workplace. The Task Force concluded that there was an inadequate discussion of potential take-home hazards from radioactive substances. Furthermore, the Report does not consider the broader range of exposures to infectious agents that might be transmitted from workers to their family members by means other than from the presence of pathogens on skin or clothing. The Task Force recognizes that this restrictive definition of infectious agent transmission was prescribed by Congress. Nonetheless, the majority of infectious disease risk to workers' family members is likely to result from other routes of exposure. Of specific concern is the possibility of transmission of infectious diseases to family members of health care workers. Potential risks for reproductive system damage and developmental disorders as a consequence of take-home exposures also did not receive adequate consideration.

Assessing the extent of take-home exposures requires the identification and analysis of contamination transport pathways, and methods of measuring the toxic chemicals of interest. A review of the published literature, as

summarized in the NIOSH Report, does not provide specific information describing these pathways or their analysis. Many of the citations are anecdotal, based on outdated industrial practices, or are summaries of foreign experiences that may not be directly applicable to the United States.

Gaps in Knowledge

An understanding of the potential burden of impaired health experienced by workers' family members due to take-home exposures has been limited by significant knowledge gaps in: the types, sources, and magnitude of take-home exposures; the size and characteristics of at-risk populations; the types and severity of potentially associated health effects; and the adequacy of exposure control methods. The following section summarizes the Task Force's conclusions on knowledge gaps and recommended approaches for reducing these gaps.

Types and Levels of Exposure

Little systematic research has permitted quantification of previously recognized and emerging take-home exposures. Moreover, identification of new, unanticipated hazards is impeded by limitations of existing research methodology. Past episodes of documented health hazards suggest the importance of determining the extent of take-home exposures from recognized toxic agents, such as lead or beryllium. However, no reliable and feasible methods exist to determine how many homes and families are potentially exposed to established toxicants and what exposure levels might exist.

The difficulties of assessing the extent of exposure to previously unrecognized toxicants are even more daunting. Although it might be argued that contemporary workplace hygienic practices should offer adequate protection against excessive take-home exposures in large, well-organized businesses, small businesses often lack financial resources for exposure reduction programs. A further complication is that it is virtually impossible to predict which workplace agents may in the future pose threats to workers' family members' health. The problem of agent identification and quantification undoubtedly has been compounded in recent years as newer materials have been introduced into the workplace. This trend is likely to continue for the foreseeable future.

Identifying sources of exposures (i.e., workplace or ambient environment) is another difficulty that must be addressed in characterizing exposure pathways.

It will clearly not be possible to institute a nationwide surveillance system for all known and suspected take-home toxicants. Instead, focused approaches can be devised that provide sufficient information to support health-related research or exposure remediation interventions. One recommended approach is to institute regional, and where feasible, national exposure sentinel monitoring systems for agents that have a likely potential for home transport and can be measured reliably. Precedent is provided by the Beryllium National Registry. Such a system would require prioritizing agents on the basis of known toxicity and ease of recognition, and targeting surveillance in areas where workplace exposures are relatively common. Take-home pesticide exposures in rural areas may be a useful prototype because there exist methods for in-home exposure measurement and exposure pathway analyses.

Determining exposures to agents that are not obvious take-home hazards might require input from community health practitioners who should be encouraged to obtain more and better information on the occupational history of family members, at least for current employment. Periodic collection and analysis of data relating disease occurrence to family members' occupations might reveal previously unrecognized associations that warrant further examination.

There are also important knowledge gaps related to defining the populations at risk for take-home toxic exposures, and, ultimately, health hazards. The potentially exposed population includes all household members of workers capable of transporting contaminants into the home, residents of farms, and residents of homes that function as cottage industry workplaces. Exposed household members frequently are children, the elderly, pregnant women, and the ill or disabled. Family members exposed to take-home agents may in some instances have an increased level of vulnerability compared to individuals exposed in an occupational setting. Household members may differ from workers physiologically (e.g., age and health status), behaviorally (e.g., hand-to-mouth and pica behaviors of young children), and educationally (e.g., worker awareness and use of personal protective equipment). For example, children absorb, distribute, and metabolize some toxicants differently than adults. The elderly also exhibit physiologic differences that may alter susceptibility to toxic substances. Elderly persons who have experienced long-term exposures may also have accumulated substantial body burdens before take-home exposures occur. Additionally, the vulnerability of some workers' household members may be affected by low socioeconomic status, which may lead to problems with access to health care, pre-existing diseases, and compromised nutritional status. Limited access to health care is an important issue because workers of lower socioeconomic status may be more likely to hold jobs in which they are exposed to high levels of toxic substances because of inadequate workplace controls; elevated exposure levels may combine with limited access to health care to increase the risk of adverse health effects among workers and their families.

To characterize the exposed population accurately it will be necessary to generate estimates of the number of workers who encounter specific hazardous substances on the job. Descriptions of household sizes, types, and locations will also be needed. These data are not currently available, but may be crudely estimated for some major agents (e.g., asbestos, lead) from national databases and census reports. However, even these estimates are limited by a lack of specific, quantitative information concerning workplace exposure levels and modes of toxicant transport from the workplace to homes. An additional complication will be introduced as the age distribution and living conditions of the exposed population changes. For example, as the U.S. population ages and health care costs escalate, extended families living in the same home may become more common, and the home may become an increasingly frequent site for health care delivery to chronically ill family members. These changes in the profile of the population-at-risk make it difficult to predict the future magnitude of the problem of home contamination.

Distinguishing Primary Occupational Health Effects From Secondary Take-Home Exposure Effects

Workers' household members may exhibit different health effects from those seen in workers, thus making detection difficult and potentially obscuring the link to the workplace. Lead, for example, can impair the child development at low levels of body burden, and exposure to estrogenic compounds has been reported to cause hormone-related effects, such as abnormal breast enlargement in children. Other chemicals brought home from the workplace may cause similar toxic effects. Although there are documented instances of these effects following take-home exposures, the

extent of the problem remains unknown. Additionally, adverse reproductive effects have been associated with exposures to several toxic exposures in worker groups, but effects experienced by family members, including pregnant wives of workers, have not been well characterized. Epidemiologic studies of worker families may be useful in this regard. Improved data sources, such as the inclusion of both parents' occupations on birth certificates, should be considered.

Government-mandated standards for levels of workplace exposure are based on protection of adult workers. Guidelines for worker exposures are not intended to protect individuals who may be more vulnerable due to compromised health or age factors. Thus, workers who themselves may not be affected adversely by work exposures may still transport agents to the home that are capable of affecting others in their household. The characteristics of the home environment dictate that some family members may experience take-home toxic exposures throughout the day, especially for persistent agents that can be readily disbursed in the home environment (e.g., lead). Continuous exposures to these substances, even at low levels, may pose health risks to family members.

Most Important Health Effects

The literature summarized in the NIOSH Report to Congress indicates that the clearest instances of health hazards related to take-home exposures are those where the pathways of exposure are established and the health effects are both severe and specific to the exposure. The most obvious examples are asbestos- and beryllium-associated lung diseases and lead poisoning. Knowledge of health effects is based largely on case reports rather than population-based studies; consequently, the true spectrum of health outcomes is essentially unknown. Most of the research literature does not address how take-home exposures contribute to diseases with complex or multi-factorial origins (e.g., cancers or birth defects). Other conditions, such as asthma, skin diseases, and neurological dysfunction, are difficult to relate to take-home exposures because of their generally non-specific etiologies.

The health effects of historically important take-home toxicants, such as lead, pose a continuing threat, but remain difficult to monitor because there is no system for evaluating the extent of the problem. For example, as workplace lead standards are lowered it may be anticipated that take-home exposure concentrations would be diminished concomitantly. However, data from population surveys (e.g., NHANES) of blood lead levels cannot reveal the past contribution of take-home occupational exposures to currently occurring health effects due to the overwhelming influence of ambient exposures on body burden.

Potential Future Threats to Health From Take-Home Exposures

Severe episodes of toxicity from known hazards, such as lead or pesticide poisoning, will undoubtedly occur in the future with unpredictable frequency. The contributions of less well-established take-home exposures are much less predictable and deserve more scrutiny. Diseases that are clearly increasing in incidence and prevalence, such as childhood asthma, are logical candidates for future study. Health effects of fundamental importance to reproductive function also require further examination, especially given the established association between certain occupational exposures and altered endocrine function.

The wording of the Workers' Family Protection Act limits take-home exposures to agents that are transmitted either from the workers' clothing or external body surfaces. Thus, chemicals or infectious agents harbored in blood or other internal body compartments were considered outside the purview of the NIOSH review. Although this restriction simplifies the scope of exposure control and remediation strategies, possible health risks of considerable public health importance may be excluded from consideration. Blood-borne infections, occupationally acquired by health care workers and subsequently transmitted to family members, is a clear example of such take-home transmission.

Exposure Remediation

Remedial measures to protect workers' families should focus primarily on identifying and preventing the transport of potentially hazardous substances from the workplace. NIOSH's National Occupational Research Agenda (April 1996) lists control technology and personal protective equipment as one of 21 research priorities that can lead to improved worker safety and health. It states that ''recognized safety and health hazards can be managed by a variety of engineering, administrative, and worker protection techniques.'' These same techniques can be applied to prevent the contamination of workers' homes with hazardous substances transported from workplaces. Decontamination procedures should be viewed as necessary only when preventive measures were not taken or were inadequate.

There is little research documenting the overall degree of exposure and the extent to which health effects occur because workers inadvertently carry home hazardous substances from work on their clothes, body, or tools; health effects related to some substances, however, are well recognized because of their uniqueness and clear associations with workplace exposures. For these hazardous substances, a modest investment of resources could prevent transport of the substances to workers' homes, first and foremost by enhanced training efforts to increase awareness of the hazards and acceptance of safe work and material-handling procedures by employees and employers (e.g., changing clothes before going home, showering before going home, separating work areas from living or eating areas, using personal protective equipment). Also effective would be the development and distribution of information and education programs aimed at family members and health care professionals.

Take-home contamination can also be managed by instituting and adhering to engineering controls, such as the proper use of equipment, substitution of safer materials, use of equipment with improved engineering designs when available, or using personal protective equipment to isolate the worker from the hazard. Although various control measures have been used to prevent the adverse health effects of known take-home toxicants in workers' families, limited information exists to assess or predict their effectiveness. The Task Force recommends that, at a minimum, an investigative strategy should include: (1) Development of surveillance programs to document the effectiveness of control measures that are being used, including an assessment of the feasibility and effectiveness of alternative measures; (2) an assessment of the performance of existing protective clothing (i.e., single-use disposable and clothing that can be laundered) as barriers for chemical, biological, thermal, and physical hazards; (3) an assessment of the use and acceptance of protective clothing by workers; (4) research on, and development of, new types of materials for protective clothing and gloves, including evaluation of their performance characteristics; and (5) measures to ensure that protective clothing is designed to fit the growing numbers of minority and female workers, and that such clothing is made available to them.

For many occupations, control measures have not been developed because there is a lack of awareness of the potential health effects of take-home toxicants and the extent to which they occur at home. As these hazards become apparent, the Task Force recommends that sufficient technical and financial resources be applied to evaluate the effectiveness of proposed control measures.

The effectiveness of most decontamination procedures has not been adequately assessed, and is dependent on the hazardous substance(s) involved, the manner in which remediation procedures are followed, and the entity that requires decontamination (e.g., person, clothing, surface). Because the primary source of home contamination is via the worker's clothing, items that come in contact with the worker's garments such as automobile seats, carpeting, furniture, and other porous materials, are most likely to require decontamination. Decontaminating reusable garments using home laundry procedures can create problems with contaminated effluent, as well as incomplete decontamination due to the lack of sophisticated laundry techniques and poor use of cleaning temperatures, mechanical action, and appropriate cleaning agents. Furthermore, laundering garments worn by health care workers in locations other than commercial laundries has the potential to contaminate homes with infectious agents transported from the workplace. In these situations, and where there is worker exposure to non-water soluble contaminants (such as asbestos), disposable, single-use garments is an option.

Proposed Research Agenda

In proposing a Research Agenda to address potential health hazards resulting from take-home exposures, the Task Force formulated the following questions: (1) What evidence is there that historically-recognized toxic exposures continue to pose health threats to workers' family members; (2) what are the previously unrecognized hazardous exposures; (3) what adverse health effects among workers' family members can be attributed to take-home exposures; and, (4) are exposure control methods effective? The Task Force commented that any scientific determination of the past and ongoing occurrence of impaired health associated with take-home exposures requires coordinated research among professionals with expertise in occupational and environmental exposure assessment, epidemiology, biostatistics, clinical occupational and environmental medicine, and toxicology.

The Task Force recommends that federal and other governmental agencies sponsor research into the types, levels, and determinants (i.e., sources) of take-home exposures, potential adverse consequences experienced by workers' family members, and exposure remediation and control technology. The Task Force notes that the Research Agenda is not intended to be a mutually exclusive list of individual research programs; rather, the Agenda items are interdependent and should engender research efforts that address more than one of these programs concurrently. The research priorities are listed below:

- Characterization of the extent of home contamination with recognized workplace toxicants, including, but not restricted to: toxic metals (e.g., lead, beryllium), pesticides, and dusts (e.g., asbestos);
- Identification of populations at greatest risk of exposure to known and suspected take-home toxicants;
- Assessment of adverse health effects potentially related to take-home exposures, including considerations of previously established adverse effects and newer or less well-studied associations, such as the consequences of transmitting infectious agents and radioactive substances into the home;
- Identification of previously unrecognized toxic exposures that potentially place workers' family members at risk for health impairment; and,
- Assessment of the effectiveness of take-home exposure prevention and remediation methods, including decontamination procedures.

In proposing this research agenda, the Task Force intentionally avoided prescribing specific topics for and methods of investigation. This was due largely to the absence of adequate contemporary information that would indicate which exposures currently present the greatest hazards to family members. This dearth of information is, in fact, what motivated the research agenda recommendations for characterizing exposure conditions. The Task Force felt that responsibility for defining specific topics and scope of research protocols should reside with federal and other governmental agencies, and with private sector research sponsors, who issue requests for research proposals and make research grant awards. Additionally, the Task Force concluded that research on exposure and health assessments related to take-home exposures deserves full consideration by NIOSH under the Institute's National Occupational Research Agenda (NORA).

Legal and Policy Considerations

Existing federal statutes have been applied to take-home contamination in a narrow manner, either because of substance-specific statutory language or restrictive enforcement priorities. For example, the toxic-waste remediation efforts of EPA and ATSDR emphasize large-scale contamination events, usually involving neighborhoods or entire communities. Under the Workers' Family Protection Act, these agencies must emphasize assessment of isolated incidents in which only one or a few workers bring home toxic substances from their workplaces. These incidents, are important to identifying the toxic substances most often involved in take-home contamination, determining the means by which contaminants are effectively removed from the workplace to the home, and estimating the extent to which such contamination represents a much larger problem in a particular workplace or industrial sector. The research approach implemented by ATSDR to document these incidents, as well as the Sentinel Event Notification System for Occupational Risks (SENSOR) developed by the National Institute for Occupational Safety and Health, could be adopted by other federal and State agencies involved in take-home contamination research. The data resulting from this research could then be used by federal and State agencies, including OSHA, to promulgate regulations and standards to prevent take-home contamination. In this regard, attention must be paid to the regulatory authority of the Department of Energy/Nuclear Regulatory Commission, Department of Transportation, and the Coast Guard over specialized industries; the involvement of these agencies in strategy implementation is critical to the protection of the families of workers regulated by these agencies.

Of the non-OSHA federal statutes, only the Asbestos Hazard Emergency Response Act of 1986 explicitly addresses take-home contamination. The remaining statutes, however, contain provisions that could be used to prevent and remediate take-home contamination if the agencies that implement these statutes elect to emphasize this issue in the standards and regulations they promulgate. The Workers' Family Protection Act did not anticipate revisions to the existing statutory authority of the federal agencies that may be involved in take-home contamination issues, and none will be needed if these agencies take

advantage of their existing statutory authority to promulgate and enforce standards and regulations that are responsive to the hazardous conditions identified by the Research Agenda developed by this Task Force. Agency responsiveness to the Agenda, however, depends largely on the means by which participation, coordination, and accountability among the agencies are effected. Revision of agency statutes to authorize specifically the prevention and remediation of take-home contamination, especially through revision of the factors used to establish the prioritization schemes used by EPA and ATSDR, should be considered by Congress only if the agencies find it difficult to respond effectively to the Research Agenda.

Response From the National Institute for Occupational Safety and Health (NIOSH)

NIOSH supports the research agenda proposed by the Workers' Family Protection Task Force in this report. The recommended research priorities fit within the framework of the National Occupational Research Agenda (NORA) and particularly its priority area ''Special Populations at Risk.'' This plan, developed by NIOSH and more than 500 public and private partners and stakeholders, includes priorities for addressing allergic and irritant dermatitis; asthma and chronic obstructive pulmonary disease; fertility and pregnancy abnormalities; infectious diseases; control technology and personal protective equipment; and many other areas highlighted by the Task Force for consideration. NIOSH supports the recommendations of the Task Force and welcomes public comment on the proposed research agenda.

Dated: January 30, 1998.

Linda Rosenstock,

Director, National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC).

[FR Doc. 98–2824 Filed 2–4–98; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97N–0264]

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 ''Medical Devices: Substantial Equivalence 510(k) Summaries and 510(k) Statements Premarket Notification'' 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 July 16, 1997 (62 FR 38098), 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 0910–0281. The approval expires on September 30, 2000.

Dated: January 30, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–2910 Filed 2–4–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98D–0004]

Guidance for Reviewers on Repeal of Section 507 of the Federal Food, Drug, and Cosmetic Act; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance document for reviewers entitled ''Repeal of Section 507 of the Federal Food, Drug, and Cosmetic Act.'' The guidance is intended to clarify the administrative processes that will be followed in implementing the Food and Drug Administration Modernization Act of 1997 (the FDAMA).

DATES: General comments on the agency guidance documents are welcome at any time.

ADDRESSES: Submit written requests for single copies of this guidance document entitled ''Repeal of Section 507 of the Federal Food, Drug, and Cosmetic Act'' to the Drug Information Branch (HFD–210), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send one self-addressed adhesive label to assist that office in processing your requests. Submit written comments on the guidance to the Dockets Management Branch (HFD–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Murray M. Lumpkin, Center for Drug Evaluation and Research (HFD–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5400.

SUPPLEMENTARY INFORMATION: FDA is announcing the availability of a guidance document for reviewers entitled ''Repeal of Section 507 of the Federal Food, Drug, and Cosmetic Act.'' Section 125 of title I of the FDAMA (Pub. L. 105–115), signed into law by President Clinton on November 21, 1997, repealed section 507 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 357). As a result of the repeal of section 507 of the act, which took effect immediately, several of the agency's administrative processes for reviewing and approving antibiotic drug applications must be changed. This guidance document is intended to clarify several of the administrative processes that will be followed in implementing section 125 of the FDAMA.

This guidance document represents the agency's current thinking on the implementation of the repeal of section 507 of the act. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute, regulations, or both.

Interested persons may submit written comments on the guidance document to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The guidance document and received comments may be seen in the office above between 9

a.m. and 4 p.m., Monday through Friday.

Copies of this guidance document are available on the Internet at ''http://www.fda.gov/cder/guidance/index.htm.''

Dated: January 28, 1998.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 98–2754 Filed 2-4-98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[HCFA–2728]

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: Reinstatement, without change, of a previously approved collection for which approval has expired; *Title of Information Collection:* End Stage Renal Disease Medical Evidence Report Medicare Entitlement and/or Patient Registration; *Form No.:* HCFA–2728; *Use:* This form captures the necessary medical information required to determine Medicare eligibility of an end stage renal disease claimant. It also captures the specific medical data required for research and policy decisions on this population as required by law. *Frequency:* Quarterly, Weekly, Semi-annually, Monthly, and Annually; *Affected Public:* Individuals or Households; *Number of Respondents:* 60,000; *Total Annual Responses:* 60,000; *Total Annual Hours:* 25,000.

To obtain copies of the supporting statement for the proposed paperwork collections referenced above, or 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 27, 1998.

John P. Burke III,

HCFA Reports Clearance Officer, Division of HCFA Enterprise Standards, Health Care Financing Administration.

[FR Doc. 98–2861 Filed 2–4–98; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[HCFA–174]

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: Extension of a currently approved collection; *Title of Information Collection:* Quality Assurance for Phase II of the Home Agency Prospective Payment Demonstration; *Form No.:* HCFA–174; *Use:* This instrument will be used to collect information to continue monitoring the quality of care provided by agencies participating in Phase II of the Home Health Agency Prospective Payment Demonstration. *Frequency:* Monthly; *Affected Public:* Business or other for-profit, Not-for-profit institutions; *Number of Respondents:* 20,520; *Total Annual Responses:* 53,352; *Total Annual Hours:* 6,669.

To obtain copies of the supporting statement for the proposed paperwork collections referenced above, or 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 27, 1998.

John P. Burke III,

HCFA Reports Clearance Officer, Division of HCFA Enterprise Standards, Health Care Financing Administration.

[FR Doc. 98–2862 Filed 2–4–98; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting of the National Cancer Institute Special Emphasis Panel (SEP) meeting:

Name of SEP: In Vitro Screening and Evaluation of Chemicals and Preclinical Drugs for In Vivo Toxicology Selection.

Date: February 17, 1998.

Time: 9:00 a.m. to Adjournment.

Place: Executive Plaza North, Conference Room H, 6130 Executive Boulevard, Bethesda, MD 20892.

Contact Person: Courtney M. Kerwin, Ph.D., M.P.H., Scientific Review Administrator, National Cancer Institute, NIH, Executive Plaza North, Room 630I, 6130 Executive Boulevard, MSC 7405, Bethesda, MD 20892–7405, Telephone: 301/496–7421.

Purpose/Agenda: To review, discuss and evaluate responses to a Request for Proposal.

The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Numbers: 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control)

Dated: January 29, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–2786 Filed 2–4–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Cancer Institute Special Emphasis Panel (SEP) meeting:

Name of SEP: Career Development Mentored Research Award.

Date: February 20, 1998.

Time: 8:30 a.m. to Adjournment.

Place: National Cancer Institute, Executive Plaza North, Conference Room G, 6130 Executive Boulevard, Bethesda, MD 20892–7405.

Contact Person: Wilna Woods, Ph.D., Scientific Review Administrator, National Cancer Institute, NIH, Executive Plaza North, Room 622B, 6130 Executive Boulevard, MSC 7405, Bethesda, MD 20892–7405, Telephone: 301/496–7903.

Purpose/Agenda: To review, discuss and evaluate grant applications.

The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Numbers: 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control)

Dated: January 29, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–2787 Filed 2–4–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Meeting: Acquired Immunodeficiency Syndrome Research Review Committee

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Acquired Immunodeficiency Syndrome Research Review Committee, National Institute of Allergy and Infectious Diseases, on March 5–6, 1998 at the Sheraton City Center, 1143 New Hampshire Avenue, N.W., Washington, D.C.

The meeting will be open to the public from 8:30 a.m. to 9:30 a.m. on March 5 to discuss administrative details relating to committee business and program review. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sec. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and secs. 10(d) of Public Law 92–463, the meeting will be closed to the public for the review, discussion, and evaluation of individual grant applications and contract proposals from 9:30 a.m. until recess on March 5, and from 8:30 a.m. until adjournment on March 6. These applications, proposals, and discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Claudia Goad, Committee Management Officer, National Institute of Allergy and Infectious Diseases, Solar Building, Room 3C26, National Institutes of Health, Bethesda, Maryland, 301–496–7601, will provide a summary of the meeting and a roster of committee members upon request. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Ms. Goad in advance of the meeting.

Dr. Paula Strickland, Scientific Review Administrator, Acquired Immunodeficiency Syndrome Research Review Committee, NIAID, NIH, Solar Building, Room 4C02, Rockville, Maryland 20892, telephone 301–402–0643, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 93.855, Immunology, Allergy and Immunologic Diseases Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health)

Dated: January 29, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–2783 Filed 2–4–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings:

Purpose/Agenda: To review and evaluate contract proposals.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel.

Date of Meeting: February 20, 1998.

Time: 9:00 a.m. to adjournment.

Place of Meeting: Residence Inn, 7335 Wisconsin Avenue, Bethesda, MD.

Contact Person: Ronald Suddendorf, 6000 Executive Boulevard, Suite 409, Rockville MD 20892–7003, 301–443–2926.

Purpose/Agenda: To review and evaluate a grant application.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel.

Date of Meeting: March 02, 1998.

Time: 2:30 p.m. to adjournment.

Place of Meeting: Bethesda Hyatt Regency, One Bethesda Metro Center, Bethesda, MD.

Contact Person: Ronald Suddendorf, 6000 Executive Boulevard, Suite 409, Rockville MD 20892–7003, 301–443–2926.

Purpose/Agenda: To review and evaluate contract proposals.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel.

Date of Meeting: March 02, 1998.

Time: 4:00 p.m. to adjournment.

Place of Meeting: Bethesda Hyatt Regency, One Bethesda Metro Center, Bethesda, MD.

Contact Person: Ronald Suddendorf, 6000 Executive Boulevard, Suite 409, Rockville MD 20892–7003, 301–443–2926.

Purpose/Agenda: To review and evaluate grant applications.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel.

Date of Meeting: March 03, 1998.

Time: 8:00 a.m. to adjournment.

Place of Meeting: Bethesda Hyatt Regency, One Bethesda Metrol Center, Bethesda, MD.

Contact Person: Ronald Suddendorf, 6000 Executive Boulevard, Suite 409, Rockville MD 20892–7003, 301–443–2926.

The meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5 U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance, Program Nos. 93.271, Alcohol Research Career Development Awards of Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; and 93.891, Alcohol Research Center Grants; National Institutes of Health)

Dated: January 29, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–2784 Filed 2–4–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental Research; Notice of Closed Meeting of the National Institute of Dental Research Special Grants Review Committee

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting:

Name of Committee: National Institute of Dental Research Special Grants Review Committee.

Date: February 18–19, 1998.

Time: 8:30 a.m. to Adjournment.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, Maryland 20814.

Contact Person: Dr. William Gartland, Scientific Review Administrator, NIDR Special Grants Review Committee, Natcher Building, Room 4AN–38E, Bethesda, MD 20892, (301) 594–2372.

Purpose/Agenda: To review and evaluate grant applications and/or contract proposals.

The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program No. 93.121, Dental Research Institute; National Institutes of Health, HHS)

Dated: January 29, 1998.

LaVerne Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–2785 Filed 2–4–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings of the National Institute of Mental Health Initial Review Group:

Agenda/Purpose: To review and evaluate grant applications.

Committee Name: Neuro-Immunology, Virology, and AIDS Review Committee.

Date: March 2–3, 1998.

Time: 3:00 p.m.

Place: Days Inn Downtown, 1201 K Street, N.W., Washington, DC 20005.

Contact Person: Sheri Schwartzback, Parklawn, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857. Telephone: 301–443–6470.

Committee Name: Clinical AIDS and Immunology Review Committee.

Date: March 10–11, 1998.

Time: 8:30 a.m.

Place: Chevy Chase Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Regina M. Thomas, Parklawn, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857. Telephone: 301–443–6470.

The meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5 U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Numbers 93.242, 93.281, 93.282)

Dated: January 29, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–2788 Filed 2–4–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Center for Scientific Review Special Emphasis Panel (SEP) meetings:

Purpose/Agenda: To review individual grant applications.

Name of SEP: Biological and Physiological Sciences.

Date: February 12, 1998.

Time: 8:30 a.m.

Place: Embassy Suites Hotel, Washington, DC.

Contact Person: Ms. Carol Campbell, Scientific Review Administrator, 6701 Rockledge Drive, Room 5196, Bethesda, Maryland 20892, (301) 435–1257.

This notice is being published less than 15 days prior to the above meeting due to the urgent need to meet timing limitations imposed by the grant review and funding cycle.

Purpose/Agenda: To review Small Business Innovation Research.

Name of SEP: Behavioral and Neurosciences.

Date: March 5–6, 1998.

Time: 2:00 p.m.

Place: Regency Plaza Hotel, San Diego, CA.

Contact Person: Dr. Joe Marwah, Scientific Review Administrator, 6701 Rockledge Drive, Room 5188, Bethesda, Maryland 20892, (301) 435–1253.

Name of SEP: Chemistry and Related Sciences.

Date: March 13–14, 1998.

Time: 8:30 a.m.

Place: Holiday Inn-Georgetown, Washington, DC.

Contact Person: Dr. Chhandra Ganguly, Scientific Review Administrator, 6701 Rockledge Drive, Room 5156, Bethesda, Maryland 20892, (301) 435–1739.

The meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the

discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: January 30, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–2789 Filed 2–4–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (301) 443–0525.

Proposed Project: Treatment Improvement Protocols (TIPs) Evaluation Project—New—Since 1992, the Center for Substance Abuse Treatment (CSAT) has published 25 Treatment Improvement Protocols which provide administrative and clinical practice guidance to the substance abuse treatment field. CSAT plans to conduct an evaluation study to determine the impact of TIPs. The first phase of the evaluation, the Retrospective Study, will examine the impact of TIPs published by CSAT as of September 1998. Surveys of four distinct target audiences of interest to CSAT will be conducted including Single State Agency Directors, directors of substance abuse treatment facilities listed in the most recent Uniform Facilities Data Set (UFDS) database, clinical directors of treatment facilities listed in the UFDS database, and frontline clinicians/counselors working in facilities listed in the UFDS database. Measures will include organization characteristics and outcomes associated with the following variables: awareness, receipt, and reading of TIPs; perceived utility of TIPs; and the impact of TIPs on changing substance abuse treatment practices. The estimated annualized burden is summarized below.

	No. of respondents	No. of responses/respondent	Hours/response	Total burden hours
Single State Agency Directors	56	2	0.50	56
Facility Directors	408	2	0.42	343
Clinical Directors	408	2	0.42	343
Counselors	408	2	0.42	343
Total				1,085

Proposed Project: State Treatment Needs Assessment Studies—New—SAMHSA's Center for Substance Abuse Treatment (CSAT), as part of its State Treatment and Needs Assessment Program (STNAP), awards contracts to States to conduct studies for the purpose of determining the need and demand for substance abuse treatment within each State. In order to receive funds from the Substance Abuse Prevention and Treatment Block Grant, States must submit in their annual block grant applications an assessment of service needs Statewide, at the sub-state level, and for specified population groups (as required by Section 1929 of the Public Health Service Act). Most States plan to conduct an adult telephone household survey to collect information on needed treatment for substance abuse/dependence. In addition, many States plan to conduct a variety of more focused studies which will collect data on treatment need in special populations, including adolescents, pregnant women, injecting drug users, American Indians, arrestees and other criminal justice populations. The estimated annualized burden for the State needs assessment studies over the next three years is presented below.

	No. of respondents	No. of responses/respondent	Hours/response	Total burden hours	Annualized burden hours
Adult Household Telephone Surveys	54,400	1	0.5	27,200	9,067
Adolescent Surveys	25,800	1	0.5	12,900	4,300
Criminal justice populations	9,050	1	1.0	9,050	3,017
Medicaid recipients	7,800	1	0.5	3,900	1,300
Other population groups	8,100	1	1.0	8,100	2,700
Treatment providers	255	1	1.0	255	85
Total				61,405	20,469

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and

clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Send comments to Deborah Trunzo, SAMHSA Reports Clearance Officer, Room 16–105, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: January 30, 1998.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 98–2823 Filed 2–4–98; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the following meeting of the SAMHSA Special Emphasis Panel II in February 1998.

A summary of the meeting may be obtained from: Ms. Dee Herman, Committee Management Liaison, SAMHSA, Office of Program Planning and Coordination (OPPC), Division of Extramural Activities, Policy, and Review, 5600 Fishers Lane, Room 17–89, Rockville, Maryland 20857. Telephone: (301) 443–7390.

Substantive program information may be obtained from the individual named as Contact for the meeting listed below.

The meeting will include the review, discussion and evaluation of individual contract proposals. These discussions could reveal personal information concerning individuals associated with the proposals and confidential and financial information about an individual's proposal. The discussion may also reveal information about procurement activities exempt from disclosure by statute and trade secrets and commercial or financial information obtained from a person and privileged and confidential. Accordingly, the meeting is concerned with matters exempt from mandatory disclosure in Title 5 U.S.C. 552b(c)(3), (4), and (6) and 5 U.S.C. App. 2, section 10(d).

Committee Name: SAMHSA Special Emphasis Panel II.

Meeting Date: February 9, 1998.

Place: Parklawn Building, Conference Room 12–94, 5600 Fishers Lane, Rockville, MD 20852.

Closed: February 9, 1998—10 a.m. to Adjournment.

Contact: Joan Harrison, Room 17–89, Parklawn Building, Telephone: (301) 443–2811 and FAX: (301) 443-3437.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

Dated: January 30, 1998.

Jeri Lipov,

Committee Management Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 98–2758 Filed 2–4–98; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4316–N–01]

Lead-Based Paint Hazard Control; Announcement of Funding Award—FY 1997

AGENCY: Office of the Secretary—Office of Lead Hazard Control.

ACTION: Announcement of funding award.

SUMMARY: In accordance with section 102 (a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of a funding decision made by the Department in a noncompetitive funding for Lead-Based Paint Hazard Control. This announcement contains the name and address of the award winner and the amount of the award.

FOR FURTHER INFORMATION CONTACT: Barbara Haley, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410, telephone (202) 755–1785, ext. 126. Hearing- or speech-impaired individuals may access this number by calling the Federal Information Relay Service TTY at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: The Lead-based Paint Poisoning Prevention program is authorized by Pub. L. 91–695, 84 Stat. 2078, as amended by Pub. L. 93–151 and Pub. L. 94–317 (42 U.S.C. 4821–4846).

The objectives of this grant are (1) prepare ''Maintaining a Lead Safe Home'' for publication; (2) identify and obtain mailing addresses of public libraries that will receive this manual; and (3) provide technical support and training for neighborhood organizations, small property owners, and small contractors. The distribution of the manual will help public libraries inform the public on how to prevent childhood lead poisoning. The technical support and training will assist neighborhood organizations, small property owners, and small contractors to develop safe work practices, which will also help to achieve this goal.

The Catalog of Federal Domestic Assistance number for this program is 14.900.

In accordance with section 102 (a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987, 42 U.S.C. 3545), the Department is publishing the name, address, and amount of the award as follows:

Community Resources, Inc., 28 E. Ostend Street, Baltimore, MD 21230
Amount: $33,477.00

Dated: January 28, 1998.

David E. Jacobs,

Director, Office of Lead Hazard Control.

[FR Doc. 98–2790 Filed 2–4–98; 8:45 am]

BILLING CODE 4210–01–P

DEPARTMENT OF THE INTERIOR

Western Water Policy Review Advisory Commission Meeting

AGENCY: Department of the Interior.

ACTION: Notice of open meeting.

SUMMARY: As required by the Federal Advisory Committee Act, notice is hereby given that the Western Water Policy Review Advisory Commission (Commission), established by the Secretary of the Interior under the Reclamation Projects Authorization and Adjustment Act of 1992, will meet to adopt the language of its final report to the President.

DATES: Meeting Dates:

- Thursday, February 19, 1998, 8:30 a.m.–5:00 p.m.
- Friday, February 20, 8:30 a.m.–2:00 p.m.

ADDRESSES: Meeting location: Regal Harvest House, 1345 28th Street, Boulder, Colorado. Room locations will be posted in the hotel lobby. Copies of the agenda are available from the Western Water Policy Review Office, D–5001, P.O. Box 25007, Denver, CO 80225–0007.

FOR FURTHER INFORMATION: Contact the Commission Office at telephone 303–236–6211, FAX 303–236–4286, or E-mail to lschulz@do.usbr.gov.

SUPPLEMENTARY INFORMATION:

Public Participation: Many public comments were received by the Commission during the public review

period, which ended on December 19, 1997. Further comments for the record may be provided in writing and will be provided to the members prior to the meeting if received by no later than February 11, 1998. The Commission's schedule will allow limited time for presentations not to exceed five minutes by the public on Thursday, February 19. Speakers are asked to contact the Commission Office in advance by close of business February 17, and also to provide 25 copies of their remarks at the time of presentation.

Dated: January 30, 1998.

Larry Schulz,

Administrative Officer.

[FR Doc. 98–2819 Filed 2–4–98; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*):

PRT–838751

Applicant: Roy Bianchini, Harsens Island, MI.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

PRT–838728

Applicant: International Animal Exchange, Ferndale, MI.

The applicant requests a permit to engage in foreign commerce for the transfer of 1.1 lion-tailed macaques (*Macaca silenus*) from Assininboine Park Zoo, Winnipeg, Manitoba, Canada to the Seoul Grand Park Zoo, Seoul, Korea for the purpose of enhancement of the propagation of the species.

PRT–838376

Applicant: Nashville Zoo, Joelton, TN.

The applicant requests a permit to engage in foreign commerce and to export 3 male tigers (*Panthera tigris*) to Panyu Xiang Jiang Safari World Co., Inc., Panyu City, China for the purpose of enhancement of the survival of the species through conservation education.

PRT–837753

Applicant: Cheyenne Mountain Zoological Park, Colorado Springs, CO.

The applicant requests a permit to export a female Western Lowland Gorilla (*Gorilla gorilla*) to the Metropolitan Toronto Zoo, Scarborough, Ontario, Canada, for the purpose of enhancement through exhibition and breeding.

PRT–837850

Applicant: Woodland Park Zoological Gardens, Seattle, WA.

The applicant requests a permit to import a male Sumatran Tiger (*Panthera tigris sumatrae*) from the Metropolitan Toronto Zoo, Scarborough, Ontario, Canada, for the purpose of enhancement through exhibition and breeding, as recommended by the Sumatran Tiger Species Survival Plan.

PRT–835113

Applicant: Avicultural Breeding and Research Center, Loxahatchee, FL.

The applicant requests a permit to export 6 thick-billed parrots (*Rhynchopsitta pachyrhycha*) captive-hatched at their facility to Susanne Iten-Discher, Unterageri, Switzerland, to enhance the survival of the species through captive propagation.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review, *subject to the requirements of the Privacy Act and Freedom of Information Act,* by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203. Phone: (703/358–2104); FAX: (703/358–2281).

Dated: January 30, 1998.

Karen Anderson,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 98–2837 Filed 2–4–98; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Issuance of Permit for Marine Mammals

On August 28, 1997, a notice was published in the **Federal Register**, Vol. 62, No. 167, Page 45673, that an application had been filed with the Fish and Wildlife Service by Collins F. Kellogg, Sr. for a permit (PRT–833625) to import a sport-hunted polar bear (*Ursus maritimus*) trophy taken from the Lancaster Sound population, Northwest Territories, Canada prior to April 30, 1994.

Notice is hereby given that on January 16, 1998, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

Documents and other information submitted for these applications are available for review by any party who submits a written request to the U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Rm. 700, Arlington, Virginia 22203. Phone (703) 358–2104 or Fax (703) 358–2281.

Dated: January 30, 1998.

Karen Anderson,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 98–2836 Filed 2–4–98; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–040–08–1610–00]

Notice of Intent To Prepare a Coordinated Activity Plan for the Jack Morrow Hills Area, Sweetwater, Fremont, and Sublette Counties, Wyoming and Notice of Scoping Meetings

SUMMARY: The Bureau of Land Management proposes to prepare a Coordinated Activity Plan for the Jack Morrow Hills area in the Rock Springs District in Wyoming. The Jack Morrow Hills Coordinated Activity Plan (JMHCAP) is an integrated activity planning effort to provide more specific management direction for certain public lands located in Sweetwater, Fremont, and Sublette Counties, Wyoming. The JMHCAP will supplement the Green River Resource Area Resource Management Plan (GRRMP) providing

decisions for fluid mineral leasing and mineral location within the ''core area,'' an 88,000 acre parcel of land within the JMHCAP area.

This notice also requests fluid mineral resource information (oil and gas, coalbed methane), mineral location information (gold, diamonds), and operational or development plans that will help in developing fluid mineral and mineral location management direction, Resource Management Plan (RMP) decisions, and in analyzing environmental impacts.

DATES: The scoping period for this planning effort will commence with the date of publication of this notice in the **Federal Register**. Two open house/information sharing scoping meetings are scheduled. The first meeting is scheduled for February 10, 1998, from 1 to 4 p.m. and 6 to 8 p.m., Room 1301, Western Wyoming Community College, 2500 College Drive, Rock Springs, Wyoming. The second meeting will be held February 19, 1998, from 4 p.m. to 8 p.m., at The Inn at Lander (Best Western), 260 Grand View Drive, Lander, Wyoming. Subsequent meetings or hearings and any other public involvement activities will be scheduled as needed. Notification will be through other public notices, media news releases, or mailings. The purpose of scoping and these scoping meetings is to identify specific problems, concerns, and issues pertaining to the various resource and land use values in the JMHCAP planning area and to identify any data gaps, data needs, and data sources pertaining to the area. Scoping comments must be submitted to: Green River Resource Area, 280 Highway 191 North, Rock Springs, Wyoming 82901, on or before March 10, 1998. Comments submitted by electronic mail should be sent to: wyapryich@wy.blm.gov.

FOR FURTHER INFORMATION CONTACT: Rick Amidon, Wildlife Biologist, Green River Resource Area, Bureau of Land Management, 280 Highway 191 North, Rock Springs, Wyoming 82901, phone number 307–352–0236.

SUPPLEMENTARY INFORMATION: The JMHCAP area contains approximately 622,340 acres of Federal, State, and private lands. It encompasses Steamboat Mountain and the Greater Sand Dunes Areas of Critical Environmental Concern (ACEC), seven wilderness study areas, and part of the South Pass Historic Landscape ACEC. BLM has deferred fluid leasing and mineral location decisions on the Jack Morrow Hills ''core area'' pending completion of this Coordinated Activity Plan. This planning effort will address the appropriate level and timing of leasing and development of energy resources, transportation planning, access, designation of roads, livestock grazing practices, and other ''core area'' issues.

In conformance with the Federal Land Policy and Management Act (FLPMA) and the National Environmental Policy Act (NEPA), an environmental analysis will be conducted and documented in the course of developing the JMHCAP. The level of NEPA documentation will be either an environmental assessment (EA) or an environmental impact statement (EIS) depending upon comments and issues identified during the scoping period and upon the significance of impacts identified in the environmental analysis. The EA or EIS will be used to determine if an amendment of the GRRMP will be needed. The existing GRRMP will guide management actions in the JMHCAP area other than those deferred decisions for fluid mineral resources and locatable mineral activity in the ''core area''.

RMP decisions will be subject to protest by parties who participate in the planning process and who have an interest which is or may be adversely affected by the adoption of that RMP decision as provided by Title 43, Code of Federal Regulations, § 1610.5–2.

Dated: January 30, 1998.

Alan R. Pierson,

State Director.

[FR Doc. 98–2817 Filed 2–4–98; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–990–1020–01]

Meeting of the Resource Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Resource Advisory Council meeting location and time.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972 (FACA), 5 U.S.C., the Department of the Interior, Bureau of Land Management (BLM) council meeting of the Upper Snake River Districts Resource Advisory Council will be held as indicated below. The agenda includes a discussion on the Cedar Fields OHV Trail, implementation of the healthy rangeland standard and guidelines, and Timber Program Overview. All meetings are open to the public. The public may present written comments to the council. Each formal council meeting will have a time allocated for hearing public comments. The public comment period for the council meeting is listed below. Depending on the number of persons wishing to comment, and time available, the time for individual oral comments may be limited. Individuals who plan to attend and need further information about the meetings, or need special assistance such as sign language interpretation or other reasonable accommodations, should contact Debra Kovar at the Shoshone Resource Area Office, P.O. Box 2–B, Shoshone, ID, 83352, (208) 886–7201.

DATE AND TIME: Date is March 27, 1998, starts at 8:30 a.m. at the KMVT Public Meeting Room, 1100 Blue Lakes Blvd. North in Twin Falls, Idaho. Public comments received from 8:30 to 9:00 a.m.

SUPPLEMENTARY INFORMATION: The purpose of the council is to advise the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with the management of the public lands.

FOR FURTHER INFORMATION: Contact Debra Kovar, Shoshone Resource Area Office, P. O. Box 2–B, Shoshone, ID 83352, (208) 886–7201.

Dated: January 30, 1998.

Tom Dyer,

District Manager.

[FR Doc. 98–2843 Filed 2–4–98; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–989–1050–00–P]

Filing of Plats of Survey; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey of the following described lands are scheduled to be officially filed in the Wyoming State Office, Cheyenne, Wyoming, thirty (30) calendar days from the date of this publication.

Sixth Principal Meridian, Wyoming

T. 45 N., R. 61 W., accepted January 21, 1998,
T. 46 N., R. 61 W., accepted January 21, 1998.

Sixth Principal Meridian, Nebraska

T. 26 N., R. 9 E., accepted January 21, 1998,
T. 26 N., R. 10 E., accepted January 21, 1998.

If protests against a survey, as shown on any of the above plats, are received prior to the official filing, the filing will be stayed pending consideration of the

protest(s) and or appeal(s). A plat will not be officially filed until after disposition of protest(s) and or appeal(s).

These plats will be placed in the open files of the Wyoming State Office, Bureau of Land Management, 5353 Yellowstone Road, Cheyenne, Wyoming, and will be available to the public as a matter of information only. Copies of the plats will be made available upon request and prepayment of the reproduction fee of $1.10 per copy.

A person or party who wishes to protest a survey must file with the State Director, Bureau of Land Management, Cheyenne, Wyoming, a notice of protest prior to thirty (30) calendar days from the date of this publication. If the protest notice did not include a statement of reasons for the protest, the protestant shall file such a statement with the State Director within thirty (30) calendar days after the notice of protest was filed.

The above-listed plats represent dependent resurveys, subdivision of sections.

FOR FURTHER INFORMATION CONTACT:

Bureau of Land Management, P.O. Box 1828, 5353 Yellowstone Road, Cheyenne, Wyoming 82003.

Dated: January 28, 1998.

John P. Lee,

Chief, Cadastral Survey Group.

[FR Doc. 98–2869 Filed 2–4–98; 8:45 am]

BILLING CODE 4310–22–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–958–1430–01; GP8–0093; OR–53486]

Notice of Proposed Withdrawal and Opportunity for Public Meeting; Oregon; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of correction.

SUMMARY: This notice corrects an error in the land description published in the **Federal Register**, 62 FR 61342, on November 17, 1997, as FR Doc. 97–30061, for a proposed withdrawal.

On page 61343, paragraph 1 which reads ''Olalla-Thompson Creek Day Use Area, T. 30 S., R. 7 W., sec. 5, SW¼NE¼NE¼SW¼,'' is hereby corrected to read ''sec. 5, SW¼NE¼SW¼,''.

Dated: January 23, 1998.

Robert D. DeViney, Jr.,

Chief, Branch of Realty and Records Services.

[FR Doc. 98–2771 Filed 2–4–98; 8:45 am]

BILLING CODE 4310–33–P

AGENCY FOR INTERNATIONAL DEVELOPMENT

Notice of Public Information Collection Requirements Submitted to OMB for Review

SUMMARY: U.S. Agency for International Development (USAID) has submitted the following information collections to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding this information collection are best assured of having their full effect if received within 30 days of this notification. Comments should be addressed to: Desk Officer for USAID, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington D.C. 20503. Copies of submission may be obtained by calling (202) 712–1365.

SUPPLEMENTARY INFORMATION:

OMB Number: OMB 0412–0542.

Form Number: AID 1558–2.

Title: Request for Advance or Reimbursement.

Type of Submission: Renew.

Purpose: The purpose of this information collection is to assure that American Schools and Hospitals Abroad (ASHA) grant recipients are permitted to obtain advances or reimbursements for expenditures that are authorized by the grant agreement. The information is used by (a) ASHA to monitor grant implementation relative to financial matters, (b) the Office of Financial Management (FM) to track disbursements and expenditures, and, (c) the Department of Treasury to effect payments.

Annual Reporting Burden:

Respondents: 70.

Total annual responses: 400.

Total annual hours requested: 17,698.

SUPPLEMENTARY INFORMATION:

OMB Number: OMB 0412–0543.

Form Number: AID 1558–1 and AID 1558–1A.

Title: Financial Status Report and Worksheet.

Type of Submission: Renew.

Purpose: The purpose of this information collection is to assure that ASHA grant recipients are accountable for expenditures incurred under the grant agreement for only those items authorized by the agreement. The information is used by ASHA to monitor the expenditures under each authorized line item and calculate the monetary gain or loss realized during the life of the grant.

Annual Reporting Burden:

Respondents: 70.

Total annual responses: 400.

Total annual hours requested: 280.

Dated: January 27, 1998.

Willette L. Smith,

Chief, Information and Records Division, Bureau for Management, Office of Administrative Services.

[FR Doc. 98–2842 Filed 2–4–98; 8:45 am]

BILLING CODE 6116–01–M

INTERNATIONAL TRADE COMMISSION

Investigations Nos. 731–TA–768 (Final) and 701–TA–372 (Final)

Fresh Atlantic Salmon From Chile

AGENCY: United States International Trade Commission.

ACTION: Scheduling of the final phase of antidumping and countervailing duty investigations.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of antidumping investigation No. 731–TA–768 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)) (the Act) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of less-than-fair-value imports from Chile of fresh Atlantic salmon, provided for in subheadings 0302.12.00 and 0304.10.40 of the Harmonized Tariff Schedule of the United States.[1] Section

[1] For purposes of these investigations, Commerce has defined the subject merchandise as fresh, farmed Atlantic salmon, whether ''dressed'' or cut. Atlantic salmon is the species *Salmo salar*, in the genus Salmo of the family salmoninae. ''Dressed'' Atlantic salmon refers to salmon that has been bled, gutted, and cleaned. It may be imported with the head on or off, with the tail on or off, and with the gills in or out. All cuts of fresh Atlantic salmon are included in the scope of the investigations. Examples of cuts include, but are not limited to: crosswise cuts (steaks), lengthwise cuts (fillets), lengthwise cuts attached by skin (butterfly cuts), combinations of crosswise and lengthwise cuts (combination packages), and Atlantic salmon that is minced, shredded, or ground. Cuts may be subjected to various degrees of trimming, and imported with the skin on or off and with the ''pin bones'' in or out.

Excluded from the scope are (1) fresh Atlantic salmon that is ''not farmed'' (i.e., wild Atlantic salmon); (2) live Atlantic salmon; and (3) Atlantic salmon that has been subject to further processing, such as frozen, canned, dried, and smoked Atlantic salmon, or processed into forms such as sausages, hot dogs, and burgers.

207.21(b) of the Commission's rules provides that, where the Department of Commerce has issued a negative preliminary determination, the Commission will not publish a notice of scheduling of the final phase of its investigation unless and until it receives an affirmative final determination from Commerce. Although the Department of Commerce has preliminarily determined that countervailable subsidies are not being provided to producers or exporters of fresh Atlantic salmon in Chile, for purposes of efficiency the Commission hereby waives rule 207.21(b) and gives notice of the scheduling of the final phase of countervailing duty investigation No. 701–TA–372 (Final) under section 705(b) of the Act. The Commission is taking this action so that the final phases of the antidumping and countervailing duty investigations may proceed concurrently in the event that Commerce makes an affirmative final countervailing duty determination. If Commerce makes a final negative countervailing duty determination, the Commission will terminate its countervailing duty investigation under section 705(c)(2) of the Act (19 U.S.C. § 1671d(c)(2)), and section 207.21(d) of the Commission's rules.

For further information concerning the conduct of this phase of the investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207), as amended by 61 FR 37818, July 22, 1996.

EFFECTIVE DATE: January 16, 1998.

FOR FURTHER INFORMATION CONTACT: Woodley Timberlake (202–205–3188), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov or ftp://ftp.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background

The final phase of the antidumping investigation is being scheduled as a result of an affirmative preliminary determination by the Department of Commerce that imports of fresh Atlantic salmon from Chile are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. § 1673b). The final phase of the countervailing duty investigation is being scheduled, under waiver of section 207.21(b), discussed above, for purposes of efficiency. The investigation was requested in a petition filed on June 12, 1997, by the Coalition for Fair Atlantic Salmon Trade.

Participation in the Investigations and Public Service List

Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigations need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of these investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. § 1677(9), who are parties to the investigations. A party granted access to BPI in the preliminary phase of the investigations need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff Report

The prehearing staff report in the final phase of these investigations will be placed in the nonpublic record on May 20, 1998, and a public version will be issued thereafter, pursuant to § 207.22 of the Commission's rules.

Hearing

The Commission will hold a hearing in connection with the final phase of these investigations beginning at 9:30 a.m., on June 3, 1998, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before May 21, 1998. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m., on May 27, 1998, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 days prior to the date of the hearing.

Written Submissions

Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is May 28, 1998. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is June 10, 1998; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations on or before June 10, 1998. On June 30, 1998, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before July 2, 1998, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6,

207.3, and 207.7 of the Commission's rules.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

By order of the Commission.

Issued: January 30, 1998.

Donna R. Koehnke,

Secretary.

[FR Doc. 98–2890 Filed 2–4–98; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decrees Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

In accordance with Departmental policy, 28 CFR § 50.7, notice is hereby given that three related proposed Consent Decrees in *United States* v. *Alcas Cutlery Corp., et al.,* Civil Action No. 98CV0052A(M) *United States* v. *AVX Corporation,* Civil Action No. 98CV0054A(M), and *United States* v. *McGraw-Edison Company, et al.,* Civil Action No. 98CV0053A(M) were lodged on January 21, 1998, with the United States District Court for the Western District of New York. The three complaints in these actions seek: (1) To recover, pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA''), 42 U.S.C. 9601 et seq., response costs incurred and to be incurred by the U.S. Environmental Protection Agency (''EPA'') at the Olean Wellfield Superfund Site located in the City of Olean, Town of Olean and Town of Portville, New York (''Site''); and (2) injunctive relief under Section 106 of CERCLA, 42 U.S.C. 9606.

The three proposed Consent Decrees embody agreements with three groups of potentially responsible parties (''PRPs'') at the Site pursuant to Sections 106 and 107 of CERCLA, 42 U.S.C. 9606 and 9607: (1) to pay for a portion of EPA's past response costs at the Site; and (2) to perform source control remedies at three parcels of property located within the Site.

The three Consent Decrees provide the settling defendants with releases for civil liability for EPA's past and future CERCLA response costs.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Consent Decrees.

Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, P.O. Box 7611, Washington, D.C. 20044–7611, and should refer to *United States* v. *Alcas Cutlery Corp., et al., United States* v. *AVX Corporation,* and *United States* v. *McGraw-Edison Company, et al.,* DOJ Ref. No. 90–11–3–181B.

The proposed consent decrees may be examined at the Office of the United States Attorney, 138 Delaware Ave., Buffalo, NY 14202; the Region II Office of the Environmental Protection Agency, Region II Records Center, 290 Broadway, 17th Floor, New York, NY 10007–1866; and at the Consent Decree Library, 1120 G Street, N.W., Fourth Floor, Washington, D.C. 2005, (202) 624–0892. Copies of the proposed consent decrees may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, Fourth Floor, N.W., Washington, D.C. 2005. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $240.00 ($0.25 per page reproduction costs), payable to the Consent Decree Library.

Bruce Gelber,

Deputy Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 98–2867 Filed 2–4–98; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

Notice is hereby given that on January 21, 1998, the United States lodged with the Court for the Northern District of Illinois, Western Division, a proposed Consent Decree under the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (''CERCLA''), 42 U.S.C. 9601 *et seq.* The Consent Decree resolves certain claims of the United States against the City of Rockford, Illinois, under Sections 106(a) and 107(a) of CERCLA, 42 U.S.C. 9606(a) and 9607(a) at the Southeast Rockford Groundwater Contamination (''Site'') located in Rockford, Winnebago County, Illinois. Under the Consent Decree, the City of Rockford will perform the remedial action selected by U.S. EPA in its September 30, 1995, Record of Decision and the United States will receive up to a maximum of $200,000 for future oversight response costs incurred by U.S. EPA in connection with the City of Rockford's performance of the Remedial Design and Remedial Action at the Site.

The Department of Justice will receive comments relating to the proposed Consent Decree for 30 days following publication of this Notice. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, United States Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, DC 20044–7611, and should refer to *United States, et al.* v. *The City of Rockford, Illinois,* (Civil No. 98 C 50026, N.D. Ill.) D.J. Ref. No. 90–11–3–945. The proposed Consent Decree may be examined at the Office of the United States Attorney for the Northern District of Illinois, Western Division, Rockford, Illinois; the Region V Office of the United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604; and at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005, telephone No. (202) 624–0892. A copy of the proposed Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In requesting a copy, please enclose a check for reproduction costs (at 25 cents per page) in the amount of $34.75 for the Decree, payable to the Consent Decree Library.

Bruce S. Gelber,

Deputy Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 98–2868 Filed 2–4–98; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Antitrust Division

U.S. v. Allied Van Lines, Inc., et al.

Notice is hereby given that defendant Allied Van Lines, Inc. (''Allied'') has filed with the United States District Court for the Northern District of Illinois a motion to terminate the Judgment in *United States* v. *Allied Van Lines, Inc., et al.,* Civil Action No. 44–C–30, entered by the Court on December 28, 1945 (''the Judgment''). In a Stipulation also filed with the Court, the Department of

Justice (''Department'') has tentatively consented to termination of the Judgment, but has reserved the right to withdraw consent pending receipt of public comments.

On January 11, 1944, the Division sued Allied, National Furniture Warehouseman's Association (''NFWA''), and several hundred of their member carriers in the Northern District of Illinois, alleging violations of sections 1, 2, and 3 of the Sherman Act. Specifically, the complaint alleged that defendants had committed a number of anticompetitive practices with respect to the business of interstate common carriage of household goods by motor vehicle for hire: conspiracy to monopolize; attempt to monopolize; actual monopolization; price fixing; bid rigging; refusals to deal; exclusion of competitors from membership in Allied; and expulsion of members who did not follow Allied's rules. On December 28, 1945, NFWA, Allied, and 440 of their member agents consented to entry of a judgment against them. The Judgment, as subsequently modified, has two major provisions remaining in effect: forcing NFWA to divest any interest in Allied; and prohibiting interlocking directorates by enjoining NFWA from employing officers or directors of Allied. NFWA is now known as the National Moving and Storage Association (''NMSA'').

NMSA now plans to merge with the American Movers Conference (''AMC''). Allied officers, directors, or employees traditionally served as officers or members of the board of AMC. After the merger, the new association formed by the merger will be the only major trade association for household moving companies. Allied wishes to continue to be represented on the board of the new association and therefore seeks termination of the judgment in this case.

The Department and Allied have filed with the Court memoranda that set forth the reasons why they believe that termination of the consent judgment would serve the public interest. Copies of Allied's application to terminate, the Stipulation containing the Government's consent, the supporting memoranda, and all additional papers filed with the Court in connection with this motion will be available for inspection at the Antitrust Documents Group of the Antitrust Division, U.S. Department of Justice, Room 215, North Liberty Place Building, 325 7th Street, N.W., Washington, D.C. 20004, and at the Office of the Clerk of the United States District Court for the Northern District of Illinois, Twentieth Floor, 209 South Dearborn, Chicago, Illinois 60604. Copies of these materials may be obtained from the Antitrust Division upon request and payment of the duplicating fee determined by Department of Justice regulations.

Interested persons may submit comments regarding the proposed termination of the Judgment to the Department. Such comments must be received by the Antitrust Division within sixty days and will be filed with the Court by the Department. Comments should be addressed to Andrew K. Rosa, Trial Attorney, Antitrust Division, U.S. Department of Justice, 325 Seventh Street, N.W., Suite 500, Washington, D.C. 20004, telephone (202) 307–0886.

Rebecca P. Dick,

Director of Civil Non-Merger Enforcement.

[FR Doc. 98–2850 Filed 2–4–98; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Advanced Structures

Notice is hereby given that, on October 2, 1997, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* (''the Act''), Caterpillar Inc. filed notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing a change in membership of a joint venture to develop technology for the fabrication of ''Advanced Structures''. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Automotive Products Company, Milwaukee, WI, formerly owned by A.O. Smith Corporation, has been acquired by Tower Automotive, Inc., Grand Rapids, MI, and Tower Automotive, Inc. has replaced A.O. Smith Corporation as a member of the joint venture.

No other changes have been made in either the membership or planned activity of the joint venture. Membership remains open and Advanced Structures intends to file additional written notifications disclosing all changes in membership.

On October 2, 1997, Caterpillar Inc. filed its original notification pursuant to Section 6(a) of the Act.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 98–2845 Filed 2–4–98; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Advanced Structures

Notice is hereby given that, on October 2, 1997, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Caterpillar Inc. filed notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of a cooperative research venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are Caterpillar Inc., Peoria, IL; A.O. Smith Corporation, Milwaukee, WI; The Lincoln Electric Company, Cleveland, OH; and U.S. Steel, Pittsburgh, PA.

The objective of the joint venture is to develop technology for the fabrication of ''Advanced Structures'' with the intent to improve and protect today's U.S. share of the global market in the heavy manufacturing industry. The project will focus on improving the durability (fatigue) and reliability of welded steel structures for heavy manufacturing industry, and aluminum structures for surface transportation industry. The improved performance will be achieved by combining and matching developments in a number of key technologies in steel rolling, first operations, welding, and process simulation. The goal is to improve the fatigue performance of both steel and aluminum fabricated structures.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 98–2863 Filed 2–4–98; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—CommerceNet Consortium

Notice is hereby given that, on November 7, 1997, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), CommerceNet Consortium,

(''CommerceNet'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing certain changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Specifically, the following organization has joined CommerceNet as an Executive Sponsor Member: Microsoft Corporation, Redmond, VA. The following organizations have joined the consortium as Portfolio Members: The Vision Factory, Scotts Valley, CA; and American Power Conversion, West Kingston, RI.

No other changes have been made in either the membership or planned activities of CommerceNet. Membership remains open and CommerceNet intends to file additional written notifications disclosing all changes in membership.

On June 13, 1994, CommerceNet filed its original notification pursuant to 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to 6(b) of the Act on August 31, 1994 (59 FR 45012). The last notification was filed with the Department on October 8, 1997, and a notice was published in the **Federal Register** on October 30, 1997 (62 FR 58447).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 98–2848 Filed 2–4–98; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Fastcast Consortium

Notice is hereby given that, on November 18, 1997, pursuant to § 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* (''the Act''), the Fastcast Consortium (''Fastcast'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to § 6(b) of the Act, the identities of the members who have withdrawn are: Accelerated Technologies, Inc.; Compression Engineering; The Goodyear Tire & Rubber Company, Laserform, Inc.; Manufacturing Sciences Corporation; Osteonics Corp.; Plynetics Corp., 3D Systems Corporation.

No changes have been made in the planned activities of ''Fastcast.'' Membership remains open, and ''Fastcast'' intends to file additional written notifications disclosing all changes in membership.

On April 15, 1996, the ''Fastcast'' filed its original notification pursuant to § 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to § 6(b) of the Act on May 23, 1996 (61 FR 25891).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 98–2847 Filed 2–4–98; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Interconnection Technology Research Institute (''ITRI'')

Notice is hereby given that, on November 12, 1997, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Interconnection Technology Research Institute (''ITRI''), for itself and on behalf of its members, has filed written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, ITRI advised that AlliedSignal Laminate Systems, LaCrosse, WI; Amkor Electronics, Inc., Chandler, AZ; CTS Corporation, West Lafayette, IN; Delco Electronics, Kokomo, IN; Dimensional Circuits (DCC), San Diego, CA; Eastman Kodak, Rochester, NY; Georgia Institute of Technology, Atlanta, GA; Johnson Matthey Electronics, Spokane, WA; LeaRonal, Inc., Freeport, NY; MCC, Austin, TX; MicroModule Systems (MMS), Cupertino, CA; Multek, Austin, TX; NCMS, Ann Arbor, MI; NEMI, Herndon, VA; Ormet Corp., Carlsbad, CA; PCI, Scarborough, ONTARIO, CANADA; Probe Test Fixtures, Loveland, CO; Sigma Circuits, Santa Clara, CA; Tycom Corporation, Austin, TX; and ViaSystems Technologies, Richmond, VA have become members to the venture. Advanced Flex, Minnetonka, MN; Cuplex, Garland, TX; DYNACO, Tempe, AZ; H.R. Industries, Inc., Richardson, TX; IBM Austin, Austin, TX; Lucent Technologies, Richmond, VA; Qualitek Int., Inc., Addison, IL; T.I.M.E., Inc., Miamisburg, OH; University of South Florida, Tampa, FL; and Velie Circuits, Inc., Costa Mesa, CA are no longer members.

On December 19, 1994, ITRI filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on February 1, 1995, 60 FR 6295.

The last notification was filed with the Department on November 20, 1996. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on December 12, 1996, 61 FR 65420.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 98–2864 Filed 2–4–98; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—National Elevator Industry, Inc.

Notice is hereby given that, on September 8, 1997, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* (''the Act''), the National Elevator Industry, Inc. (''NEII''), on behalf of the participants of the Escalator Performance Standard Study Agreement joint venture, filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are: Bay State Elevator Company, Inc., Agawam, MA; Demetrius G. Bellas, Bay State Elevator Company, Inc., Agawam, MA; Louis Bialy, Otis Elevator Company, Farmington, CT; James Bolch, Otis Elevator Company, Bloomfield, CT; Calvin Brast, Montgomery Kone Inc., Louisville, KY; Davie Camp, Dover Elevator Systems Inc., Memphis, TN; John Corcoran, Schindler Elevator Corp., Morristown, NJ; John J. Delorenzi, Schindler Elevator Corp., Morristown, NJ; Edward A. Donoghue, Salem, NY;

Edward A. Donoghue Associates Inc., Salem, NY; Dover Elevator Systems Inc., Memphis, TN; Tim Duin, Montgomery Kone Inc., Moline, IL; Eastern Elevator Company Inc., New Haven, CT; Paul Farnsworth, Eastern Elevator Company, Inc., New Haven, CT; Fujitech America Inc., Lebanon, OH; Maurice Gage, Ouachita Elevator Consultants Inc., Oden, AR; Zenola Harper, Otis Elevator Company, Farmington, CT; Thomas Hubbell, Montgomery Kone Inc., Moline, IL; Andrew Juhasz, Montgomery Kone Inc., Moline, IL; George Kappenhagen, Schindler Elevator Corp., Morristown, NJ; John S.M. Karnash, Schindler Elevator Corp., Morristown, NJ; Dennis M. Mayer, Otis Elevator Company, Farmington, CT; Millar Elevator Service Company, Holland, OH; Montgomery Kone Inc., Moline, IL; National Elevator Industry, Inc., Fort Lee, NJ; Tom Nurnberg, Montgomery Kone Inc., Moline, IL; Otis Elevator Company, Bloomfield, CT; Ouachita Elevator Consultants Inc., Oden, AR; Edward Parvis, Fujitech America Inc., Lebanon, OH; Edwin M. Philpot, Dover Elevator Systems Inc., Memphis, TN; Jerry Pohlman, Millar Elevator Service Company, Holland, OH; Frank Sansevero, Otis Elevator Company, Farmington, CT; Robert Schaeffer, Montgomery Kone Inc., Moline, IL; Schindler Elevator Corp., Morristown, NJ; Jean Smith, Schindler Elevator Corp., Morristown, NJ; David L. Steel, Otis Elevator Company, Farmington, CT; and E. James Walker, Jr., NEII, Fort Lee, NJ. The general area of planned activity will involve an independent study to define a performance standard to measure potential entrapment between the moving steps and the stationary skirt panel on escalators. The objectives of the joint venture are to: (1) Create a concept for developing a performance standard that measures the potential for step-skirt entrapment and a viable methodology for measurement and verification of the standard; (2) develop a methodology and tool(s) suitable for field use that will measure the potential of step-skirt entrapment; and (3) perform proof-of-concept experiments to validate the measurement methodology and performance standard.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 98–2849 Filed 2–4–98; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—National Elevator Industry, Inc.

Notice is hereby given that, on September 8, 1997, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), the National Elevator Industry, Inc. (''NEII''), on behalf of the participants of the Escalator Performance Standard Study Agreement joint venture, filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are: Bay State Elevator Company, Inc., Agawam, MA; Demetrius G. Bellas, Bay State Elevator Company, Inc., Agawam, MA; Louis Bialy, Otis Elevator Company, Farmington, CT; James Bolch, Otis Elevator Company, Bloomfield, CT; Calvin Brast, Montgomery Kone Inc., Louisville, KY; Davie Camp, Dover Elevator Systems Inc., Memphis, TN; John Corcoran, Schindler Elevator Corp., Morristown, NJ; John J. Delorenzi, Schindler Elevator Corp., Morristown, NJ; Edward A. Donoghue, Salem, NY; Edward A. Donoghue Associates Inc., Salem, NY; Dover Elevator Systems Inc., Memphis, TN; Tim Duin, Montgomery Kone Inc., Moline, IL; Eastern Elevator Company Inc., New Haven, CT; Paul Farnsworth, Eastern Elevator Company, Inc., New Haven, CT; Fujitech America Inc., Lebanon, OH; Maurice Gage, Ouachita Elevator Consultants Inc., Oden, AR; Zenola Harper, Otis Elevator Company, Farmington, CT; Thomas Hubbell, Montgomery Kone Inc., Moline, IL; Andrew Juhasz, Montgomery Kone Inc., Moline, IL; George Kappenhagen, Schindler Elevator Corp., Morristown, NJ; John S. M. Karnash, Schindler Elevator Corp., Morristown, NJ; Dennis M. Mayer, Otis Elevator Company, Farmington, CT; Millar Elevator Service Company, Holland, OH; Montgomery Kone Inc., Moline, IL; National Elevator Industry, Inc., Fort Lee NJ; Tom Nurnberg, Montgomery Kone Inc., Moline, IL; Otis Elevator Company, Bloomfield, CT; Ouachita Elevator Consultants Inc., Oden, AR; Edward Parvis, Fujitech America Inc., Lebanon, OH; Edwin M. Philpot, Dover Elevator Systems Inc., Memphis, TN; Jerry Pohlman, Millar Elevator Service Company, Holland, OH; Frank Sansevero, Otis Elevator Company, Farmington, CT; Robert Schaeffer, Montgomery Kone Inc., Moline, IL; Schindler Elevator Corp., Morristown, NJ; Jean Smith, Schindler Elevator Corp., Morristown, NJ; David L. Steel, Otis Elevator Company, Farmington, CT; and E. James Walker, Jr., NEII, Fort Lee, NJ. The general area of planned activity will involve an independent study to define a performance standard to measure potential entrapment between the moving steps and the stationary skirt panel on escalators. The objectives of the joint venture are to (1) create a concept for developing a performance standard that measures the potential for step-skirt entrapment and a viable methodology for measurement and verification of the standard; (2) develop a methodology and tool(s) suitable for field use that will measure the potential of step-skirt entrapment; and (3) perform proof-of-concept experiments to validate the measurement methodology and performance standard.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 98–2865 Filed 2–4–98; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—National Industrial Information Infrastructure Protocols Solutions for Manufacturing—Adaptable Replicable Technology

Notice is hereby given that, on November 19, 1997, pursuant to § 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* (''the Act''), the National Industrial Information Infrastructure Protocols Solutions for Manufacturing-Adaptable Replicable Technology (''NIIIP–SMART'') filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Specifically, the following organizations have joined ''NIIIP–SMART'': CIMLINC, Itasca, IL;

Concentus Technology Group, Dublin, OH. The following organizations have withdrawn their membership from ''NIIIP–SMART'': UES Incorporated; and FASTech Integration, Inc.

No other changes have been made in either the membership or planned activities of NIIIP–SMART. Membership remains open and ''NIIIP–SMART'' intends to file additional written notifications disclosing all changes in membership.

On May 1, 1996, ''NIIIP–SMART'' filed its original notification pursuant to § 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to § 6(b) of the Act on June 13, 1996 (61 FR 30098). The last notification was filed with the Department on March 21, 1997, and a notice was published in the **Federal Register** on April 29, 1997 (62 FR 23268).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 98–2846 Filed 2–4–98; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—SCM Fiber Limited Liability Company

Notice is hereby given that, on October 28, 1997, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Minnesota Mining and Manufacturing Company (''3M'') on behalf of the SCM Fiber Limited Liability Company, has filed written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to a joint research, development and production venture, and (2) the nature and objectives of the venture. The notifications were filed for the purpose of limiting recovery of plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties to the venture are Minnesota Mining and Manufacturing Company, St. Paul, MN (''3M''); and Atlantic Research Corporation, Gainesville, VA (''ARC''). The name of the venture is ''SCM Fiber Limited Liability Company.''

The objective of the venture is to develop, manufacture and sell silicon carbide monofilament (SCM) fiber (1) for the internal needs of 3M and ARC for SCM fiber (not for resale) as a component of other products made by them or their affiliates, and (2) to third parties. The venture will continue development on a pilot basis under the Integrated High-Performance Turbine Engine Technology Initiative Consortium (''IHPTET Consortium'') sponsored by the Defense Advanced Research Projects Agency (DARPA). SCM fiber is a key component of metal matrix composites (MMCs). MMCs have many potential uses for defense and commercial projects. Examples include fabrication of MMCs into components for military and commercial aircraft engines and components of naval gun projectiles.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 98–2866 Filed 2–4–98; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification

The following parties have filed petitions to modify the application of mandatory safety standards under section 101(c) of the Federal Mine Safety and Health Act of 1977.

1. H.D.F., Inc.

[Docket No. M–97–143–C]

H.D.F., Inc., P.O. Box 1389, Clintwood, Virginia 24228 has filed a petition to modify the application of 30 CFR 75.1710–1 (canopies or cabs; self-propelled diesel-powered and electric face equipment; installation requirements) to its Mine Number 1 (I.D. No. 15–17613) located in Pike County, Kentucky. The petitioner requests a variance from the use of canopies or cabs on its electric face equipment. The petitioner asserts that application of the standard would result in a diminution of safety to the equipment operator. In addition, the petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

2. M & M Anthracite Coal Company

[Docket No. M–97–144–C]

M & M Anthracite Coal Company, 245 2nd Street, Tremont, Pennsylvania 17981 has filed a petition to modify the application of 30 CFR 75.1100–2 (quantity and location of firefighting equipment) to its Little Tracey Slope (I.D. No. 36–08693) located in Schuylkill County, Pennsylvania. The petitioner proposes to use only portable fire extinguishers to replace existing requirements where rock dust, water cars, and other water storage are not practical. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

3. M & M Anthracite Coal Company

[Docket No. M–97–145–C]

M & M Anthracite Coal Company, 245 2nd Street, Tremont, Pennsylvania 17981 has filed a petition to modify the application of 30 CFR 75.1200(d) & (i) (mine map) to its Little Tracey Slope (I.D. No. 36–08693) located in Schuylkill County, Pennsylvania. The petitioner proposes to use cross-sections instead of contour lines through the intake slope, at locations of rock tunnel connections between veins, and at 1,000-foot intervals of advance from the intake slope, and to limit the required mapping of the mine workings above and below to those present within 100 feet of the veins being mined except when veins are interconnected to other veins beyond the 100-foot limit through rock tunnels. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

4. M & M Anthracite Coal Company

[Docket No. M–97–146–C]

M & M Anthracite Coal Company, 245 2nd Street, Tremont, Pennsylvania 17981 has filed a petition to modify the application of 30 CFR 75.1202–1(a) (temporary notations, revisions, and supplements) to its Little Tracey Slope (I.D. No. 36–08693) located in Schuylkill County, Pennsylvania. The petitioner proposes to revise and supplement mine maps annually instead of every 6 months, as required, and to update maps daily by hand notations. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

5. Jim Walter Resources, Inc.

[Docket No. M–97–147–C]

Jim Walter Resources, Inc., P.O. Box 133, Brookwood, Alabama 35444 has filed a petition to modify the application of 30 CFR 75.364(b)(2) (weekly examination) to its No. 3 Mine (I.D. No. 01–00758) located in Jefferson County, Alabama. Due to hazardous conditions in the air course entries, traveling certain areas of the air course would be unsafe. The petitioner proposes to establish evaluation points inby and outby the deteriorating return

of the mine, and to have a certified person examine the evaluation points for methane and oxygen concentrations and the volume of air and record the results in a book maintained on the surface of the mine. The petitioner asserts that application of the standard would result in a diminution of safety to the miners. In addition, the petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

6. Mountain Coal Company

[Docket No. M–97–148–C]

Mountain Coal Company, P.O. Box 591, Somerset, Colorado 81434 has filed a petition to modify the application of 30 CFR 75.1002–1(a) (location of other electric equipment; requirements for permissibility) to its West Elk Mine (I.D. No. 05–03672) located in Gunnison County, Colorado. The petitioner requests that the Proposed Decision and Order granting its previous petition, docket number M–95–183–C be amended to revise stipulation No. 4 in order to clarify the intent and purpose. The petitioner requests that stipulation No. 4 be revised to remove the reference to permissible equipment and to clarify that only the non-permissible equipment being used for purposes of the petition be inspected weekly since the petition is to allow the use of non-permissible equipment for testing and diagnostics purposes within 150 feet of pillar workings. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

7. Canfield Energy, Inc.

[Docket No. M–97–149–C]

Canfield Energy, Inc., P.O. Box 1021, Barbourville, Kentucky 40906 has filed a petition to modify the application of 30 CFR 75.342 (methane monitors) to its Canfield No. 4 Mine (I.D. No. 15–17716) located in Knox County, Kentucky. The petitioner proposes to use hand-held continuous-duty methane and oxygen indicators in lieu of machine-mounted methane monitors on permissible three-wheel tractors with drag bottom buckets. The petitioner asserts that this petition is based on the safety of the miners.

8. Chestnut Coal Company

[Docket No. M–97–150–C]

Chestnut Coal Company, R.D. #3, Box 142, Sunbury, Pennsylvania 17801 has filed a petition to modify the application of 30 CFR 75.1200(d) & (i) (mine map) to its No. 10 Slope (I.D. No. 36–07059) located in Northumberland County, Pennsylvania. The petitioner proposes to use cross-sections instead of contour lines through the intake slope, at locations of rock tunnel connections between veins, and at 1,000-foot intervals of advance from the intake slope, and to limit the required mapping of the mine workings above and below to those present within 100 feet of the veins being mined except when veins are interconnected to other veins beyond the 100-foot limit through rock tunnels. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

9. Peabody Coal Company

[Docket No. M–97–151–C]

Peabody Coal Company, 800 Laidley Tower, P.O. Box 1233, Charleston, West Virginia 25324 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) to its Camp No. 1 Mine (I.D. No. 15–02709) located in Union County, Kentucky. The petitioner proposes to use a spring-loaded, metal locking device for securing the battery-connecting plugs to machine-mounted battery receptacles on permissible, mobile, battery-powered scoop cars and tractors instead of using padlocks. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

Request for Comments

Persons interested in these petitions are encouraged to submit comments via e-mail to ''comments@msha.gov'', or on a computer disk along with an original hard copy to the Office of Standards, Regulations, and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 627, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before March 9, 1998. Copies of these petitions are available for inspection at that address.

Dated: January 26, 1998.

Patricia W. Silvey,

Director, Office of Standards, Regulations, and Variances.

[FR Doc. 98–2768 Filed 2–4–98; 8:45 am]

BILLING CODE 4510–43–P

NATIONAL COMMUNICATIONS SYSTEM

Telecommunications Service Priority System Oversight Committee Meeting

AGENCY: National Communications System (NCS).

ACTION: Notice of meeting.

A meeting of the Telecommunications Service Priority (TSP) System Oversight Committee will convene Wednesday, March 4, 1998 from 9 a.m. to 4 p.m. The meeting will be held in Room 2011, Hamilton Building, Booz-Allen and Hamilton, McLean, Virginia. The agenda for the meeting will be:

- Opening/Administrative Remarks.
- Status of the TSP Program.
- Working Group Reports.
- CPAS Program Update.

Anyone interested in attending or presenting additional information to the Committee, please contact CDR Angela Abrahamson, Manager, Office of Priority Telecommunications, (703) 607–4930, or Betty Hoskin (703) 607–4932 by February 18, 1998.

Dennis Bodson,

Chief, Technology and Standards Division, National Communications System.

[FR Doc. 98–2895 Filed 2–4–98; 8:45 am]

BILLING CODE 5000–03–M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Cooperative Agreement for Universal Design Exemplars

AGENCY: National Endowment for the Arts, NFAH.

ACTION: Notification of Availability.

SUMMARY: The National Endowment for the Arts is requesting proposals leading to the award of a Cooperative Agreement to identify, describe, and visually document excellent examples of Universal Design from the disciplines of architecture, interior design, landscape architecture, product design, and graphic communications. The primary audience for these materials will be students/faculty in schools of design in all the disciplines listed above, and design professionals practicing in these fields. Visuals and text will be produced on CD Rom, and should be articulate and illustrate a set of principles of Universal Design through the use of design examples. Those interested in receiving the Solicitation package should reference Program Solicitation PS 98–02 in their written request. Requests must be accompanied by two self-addressed

labels. Verbal requests for the Solicitation will not be honored.

DATES: Program Solicitation PS 98–02 is scheduled for release approximately February 23, 1998 with proposals due March 23, 1998.

ADDRESS: Requests for the Solicitation should be addressed to National Endowment for the Arts, Grants & Contracts Office, Room 618, 1100 Pennsylvania Ave., NW, Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT: William Hummel, Grants & Contracts Office, National Endowment for the Arts, Room 618, 1100 Pennsylvania Ave., NW, Washington, DC 20506 (202/682–5482).

William I. Hummel,

Coordinator, Cooperative Agreements and Contracts.

[FR Doc. 98–2772 Filed 2–4–98; 8:45 am]

BILLING CODE 7537–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–352]

Philadelphia Electric Company (Limerick Generating Station, Unit 1); Exemption

I

The Philadelphia Electric Company (the licensee) is the holder of Facility Operating License No. NPF–39, which authorizes operation of the Limerick Generating Station (LGS), Unit 1. The license provides, among other things, that the licensee is subject to all rules, regulations, and orders of the Commission now or hereafter in effect.

The facility consists of two boiling-water reactors at the licensee's site located in Montgomery and Chester Counties, Pennsylvania.

II

Section 70.24 of Title 10 of the Code of Federal Regulations, ''Criticality Accident Requirements,'' requires that each licensee authorized to possess special nuclear material (SNM) shall maintain a criticality accident monitoring system in each area where such material is handled, used, or stored. Subsections (a)(1) and (a)(2) of 10 CFR 70.24 specify detection and sensitivity requirements that these monitors must meet. Subsection (a)(1) also specifies that all areas subject to criticality accident monitoring must be covered by two detectors.

Subsection (a)(3) of 10 CFR 70.24 requires licensees to maintain emergency procedures for each area in which this licensed SNM is handled, used, or stored and provides that: (1) The procedures ensure that all personnel withdraw to an area of safety upon the sounding of a criticality accident monitor alarm, (2) the procedures must include drills to familiarize personnel with the evacuation plan, and (3) the procedures designate responsible individuals for determining the cause of the alarm and placement of radiation survey instruments in accessible locations for use in such an emergency. Subsection (b)(1) of 10 CFR 70.24 requires licensees to have a means to identify quickly personnel who have received a dose of 10 rads or more. Subsection (b)(2) of 10 CFR 70.24 requires licensees to maintain personnel decontamination facilities, to maintain arrangements for a physician and other medical personnel qualified to handle radiation emergencies, and to maintain arrangements for the transportation of contaminated individuals to treatment facilities outside the site boundary. Paragraph (c) of 10 CFR 70.24 exempts Part 50 licensees from the requirements of paragraph (b) of 10 CFR 70.24 for SNM used or to be used in the reactor. Paragraph (d) of 10 CFR 70.24 states that any licensee who believes that there is good cause why he should be granted an exemption from all or part of 10 CFR 70.24 may apply to the Commission for such an exemption and shall specify the reasons for the relief requested.

III

The SNM that could be assembled into a critical mass at LGS, Unit 1, is in the form of nuclear fuel; the quantity of SNM other than fuel that is stored on site in any given location is small enough to preclude achieving a critical mass. The Commission's technical staff has evaluated the possibility of an inadvertent criticality of the nuclear fuel at LGS, Unit 1, and has determined that it is extremely unlikely for such an accident to occur if the licensee meets the following seven criteria:

1. Only three new fuel assemblies are allowed out of a shipping cask or storage rack at one time.
2. The k-effective does not exceed 0.95, at a 95% probability, 95% confidence level in the event that the fresh fuel storage racks are filled with fuel of the maximum permissible U-235 enrichment and flooded with pure water.
3. If optimum moderation occurs at low moderator density, then the k-effective does not exceed 0.98, at a 95% probability, 95% confidence level in the event that the fresh fuel storage racks are filled with fuel of the maximum permissible U-235 enrichment and flooded with a moderator at the density corresponding to optimum moderation.
4. The k-effective does not exceed 0.95, at a 95% probability, 95% confidence level in the event that the spent fuel storage racks are filled with fuel of the maximum permissible U-235 enrichment and flooded with pure water.
5. The quantity of forms of special nuclear material, other than nuclear fuel, that are stored on site in any given area is less than the quantity necessary for a critical mass.
6. Radiation monitors, as required by General Design Criterion 63, are provided in fuel storage and handling areas to detect excessive radiation levels and to initiate appropriate safety actions.
7. The maximum nominal U-235 enrichment is limited to 5.0 weight percent.

By letter dated December 23, 1997, the licensee requested an exemption from 10 CFR 70.24. In this request the licensee addressed the seven criteria given above. The Commission's technical staff has reviewed the licensee's submittals and has determined that LGS, Unit 1 meets the applicable criteria. Criteria 2 and 3 are not applicable to LGS, Unit 1 since it has no fresh fuel storage racks, for prevention of inadvertent criticality; therefore, the staff has determined that it is extremely unlikely for an inadvertent criticality to occur in SNM handling or storage areas at LGS, Unit 1.

The purpose of the criticality monitors required by 10 CFR 70.24 is to ensure that if a criticality were to occur during the handling of SNM, personnel would be alerted to that fact and would take appropriate action. The staff has determined that it is extremely unlikely that such an accident could occur; furthermore, the licensee has radiation monitors, as required by General Design Criterion 63, in fuel storage and handling areas. These monitors will alert personnel to excessive radiation levels and allow them to initiate appropriate safety actions. The low probability of an inadvertent criticality, together with the licensee's adherence to General Design Criterion 63, constitutes good cause for granting an exemption to the requirements of 10 CFR 70.24(a).

IV

The Commission has determined that, pursuant to 10 CFR 70.14, this exemption is authorized by law, will not endanger life or property or the common defense and security, and is otherwise

in the public interest. Therefore, the Commission hereby grants the Philadelphia Electric Company, an exemption from the requirements of 10 CFR 70.24(a) for Limerick Generating Station, Unit 1.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will have no significant impact on the quality of the human environment (63 FR 4497).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 30th day of January 1998.

For the Nuclear Regulatory Commission.

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 98–2854 Filed 2–4–98; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–26821]

Filings Under the Public Utility Holding Company Act of 1935, as Amended (''Act'')

January 30, 1998.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by February 23, 1998, to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

National Fuel Gas Company, et al. (70–9117)

National Fuel Gas Company (''National''), a registered holding company, and its wholly-owned subsidiaries National Fuel Gas Distribution Corporation, National Fuel Gas Supply Corporation, Seneca Resources Corporation, Highland Land & Minerals, Inc., Leidy Hub, Inc., Data-Track Account Services, Inc., Horizon Energy Development, Inc., Seneca Independence Pipeline Company (''Seneca Independence''), Niagara Independence Marketing Company (''Niagara Independence all located at 10 Lafayette Square, Buffalo, New York 14203 and Utility Constructors, Inc., East Erie Extension, Linesville, PA 16424 and National Fuel Resources, Inc. 165 Lawrence Bell Drive, Suite 120, Williamsville, New York 14221 (collectively, ''Applicants''), have an application-declaration under sections 9(a), 10 and 12(b) of the Act and rules 45 and 54 under the Act.

Seneca Independence, a wholly owned subsidiary of National, propose to acquire a 25% general partnership interest in Independence Pipeline Company (''Pipeline Partnership''), now owned equally by ANR Independence Pipeline Company and Transco Independence Pipeline Company, both nonassociated companies. Niagara Independence, a wholly owned subsidiary of National, propose to acquire a 25% general partnership interest in DirectLink Gas Marketing Company (''Marketing Partnership'').

The Pipeline Partnership plans to build and operate interstate natural gas pipeline facilities to extend from Defiance, Ohio to Liedy, Pennsylvania, a distance of about 370 miles, at a cost of about $630 million. The Pipeline Partnership plans to borrow 70% of the construction cost from commercial sources, and have the partners contribute the remaining 30% as capital contributions in equal shares.

The Marketing Partnership would purchase firm natural gas transportation services from the Pipeline Partnership and from other interstate pipeline companies, at rates regulated by the Federal Energy Regulatory Commission, and would buy and sell natural gas and engage in related transactions.

The Applicants propose that: (1) National make short-term loans to Seneca Independence and Niagara Independence and provide credit support to Seneca Independence, Niagara Independence, the Pipeline Partnership and/or the Marketing Partnership; (2) Seneca Independence make short-term loans and provide credit support to the Pipeline Partnership; and/or (3) Niagara Independence make short-term loans and provide credit support to the Marketing Partnership, all of the above to be in proportion to the percentage interests held by Seneca Independence and Niagara Independence in the Pipeline Partnership and the Marketing Partnership, respectively. The short-term loans to and by Seneca Independence and Niagara Independence to finance their activities will not exceed $180 million, respectively, and will be made under the terms and conditions of the current money pool arrangement between National and its subsidiary companies (''Money Pool'').[1]

The Applicants propose that Seneca Independence and Niagara Independence be added to the group of National subsidiary companies which may make short-term borrowings under the Money Pool Order, and that they each receive authorization to incur short-term borrowings, up to an aggregate amount of $180 million, under the terms and conditions of the Money Pool Order.

National also proposes to enter into guarantee arrangements and obtain letters of credit (collectively, ''Credit Support'') with respect to obligations of Seneca Independence and/or Niagara Independence. National may directly or indirectly provide Credit Support to the Pipeline Partnership and the Marketing Partnership in proportion to its indirect percentage interest in those entities. National may provide Credit Support up to $180 million directly to Seneca Independence or indirectly to Pipeline Partnership, and $180 million directly to Niagara Independence or indirectly to Marketing Partnership. All Credit Support will be made under the terms and condition set forth in the current credit support arrangement between National and its subsidiaries.[2]

[1] *National Fuel Gas Co.*, Holding Co. Act Release No. 26443. The Commission authorized National and its subsidiary companies to participate in a system money pool (''Money Pool Order''). The Commission held that the interest rate applicable and payable to or by the subsidiaries for all loans from the surplus funds of National and its subsidiary companies (''Surplus Funds'') would be the rates for high grade unsecured 30-day commercial paper sold through dealers by major corporations as quoted in the Wall Street Journal.

The Commission also held that if external funds or both Surplus Funds and external funds are concurrently borrowed through the Money Pool, the interest rate applicable to all such borrowing and payable by the borrowing subsidiary companies will be equal to National's net cost for the external borrowings.

[2] *National Fuel Gas Co.*, Holding Co. Act Release No. 25922. The Commission authorized National to provide guarantees, through December 31, 1998, up

The Connecticut Light and Power Company, et al. (70–9151)

The Connecticut Light and Power Company (''CL&P''), 107 Selden Street, Berlin, Connecticut 06037, and Western Massachusetts Electric Company (''WMECO''), 174 Brush Hill Avenue, West Springfield, Massachusetts 01090–0010, each an electric utility subsidiary company of Northeast Utilities (''Northeast''), a registered holding company, have filed with this Commission an application-declaration filed under sections 6(a), 7, 9(a), 10 and 12(d) of the Act and rule 54 under the Act.

By orders dated December 30, 1981 and May 19, 1982 (HCAR Nos. 22342 and 22501, respectively), the Commission authorized, in relevant part: (i) The formation of the Niantic Bay Fuel Trust (''Trust'') for the purpose of financing the acquisition of nuclear fuel under a trust agreement dated January 4, 1982 between the Connecticut Bank and Trust Company, as trustor, Bankers Trust Company, as trustee (''Trustee''), and CL&P, WMECO, and The Hartford Electric Light Company (''HELCO''),[3] as beneficiaries; (ii) the assignment of certain nuclear fuel and nuclear fuel contracts; and (iii) financing for the acquisition of nuclear fuel. The Commission authorized the financing of the nuclear fuel through the issuance by the Trust of intermediate term notes in an aggregate principal amount not to exceed $300 million outstanding at any one time. In addition, the Commission authorized financing through the sale of commercial paper notes, backed by an irrevocable master letter of credit issued by The First National Bank of Boston (''FNBB''), and borrowings under a revolving credit agreement, dated January 4, 1982 between the Trustee and FNBB (''FNBB Credit Facility''), in a combined aggregate principal amount not to exceed $230 million.

By order dated January 23, 1992 (HCAR No. 25458), the Commission authorized, among other thing, CL&P and WMECO to replace the FNBB Credit Facility and to have the Trustee enter into a new $230 million revolving credit facility (''New Facility'') with a syndicate of banks (''Banks''), with the First National Bank of Chicago serving as agent (''Agent''). The initial term of the New Facility was three years, which was extended with the Banks' consent for one-year increments. The Applicants are authorized to make borrowings under the New Facility through December 31, 1998.

Under the New Facility, CL&P and WMECO (''Applicants'') entered into a credit agreement (''Credit Agreement'') dated as of February 11, 1992, as amended by a First Amendment dated April 30, 1993 and a Second Amendment dated May 12, 1995, with the Trustee, each of the Banks, and the Agent.

Under the Credit Agreement, each participating Bank is severally responsible for making advances (each, a ''Ratable Advance'') in an amount not to exceed the amount of its commitment, ratably in proportion to the aggregate commitment of all the participating Banks, Each Ratable Advance bears interest at a rate selected by the Trustee, as directed by the Applicants, from among three options: (1) the Eurodollar Rate plus an increment which shall not exceed 0.50%; (ii) a Fixed CD Rate plus an increment which shall not exceed 0.875%; or (iii) a Floating Rate equal to the higher of (a) a rate based on the overnight federal funds rate, plus 0.50%, and (b) the Agent's corporate base rate.

The Applicants now propose that the Trust pay additional fees and interest under the New Facility so that it can be extended for nine months through November 19, 1998 and seek extension of the Commission's authorization through December 31, 2003. The amount which the Applicants are presently seeking from the Banks under the New Facility will be up to $100 million.

The Applicants also propose to effect future extensions for any intervals of up to two years through December 31, 2003 with the consent of the Banks and with terms at least as favorable as those approved by the Commission herein with respect to interest rates.

The proposed amendment would (i) increase the maximum spread over the Eurodollar Rate from 0.50% to 1.625%, (ii) increase the maximum spread over the Fixed CD Rate from 0.875% to 1.75% and (iii) under the second Floating Rate option, provide for an increase from the Agent's corporate base rate to a spread of 0.50% per annum over the Agent's corporate base rate. The higher interest rates reflect the lower credit ratings of the CL&P and WMECO, which in turn reflect the Millstone outages, the electric utility restructuring initiatives in Connecticut and Massachusetts and general market perceptions of the risk of electric utilities in general and nuclear operations in particular.

EUA Energy Investment Corporation, et al. (70–8617)

EUA Energy Investment Corporation (''EEIC''), P.O. Box 2333, Boston, Massachusetts 02107, and its subsidiary EUA Bioten, Inc. (''EUAB''), 750 West Center Street, West Bridgewater, Massachusetts 02379, each a subsidiary of Eastern Utilities Associates, a registered holding company, have filed a post-effective amendment under sections 9(a), 10, 12(b) and 13(b) of the Act and rules 43(a), 45(a) and 87(d)(1) under the Act to an application-declaration filed by EEIC under sections 6(a), 7, 9(a), 10 and 12(b) of the Act rules 43(a) and 45(a) under the Act.

EEIC and EUAB have been authorized by orders of the Commission dated June 21, 1995 and November 14, 1996 (HCAR Nos. 26314 and 26604, respectively) to invest in EUAB Partnership (''EUABP''), in connection with the development of a commercial prototype biomass-fired generation facility using technology developed by EEIC (''BIOTEN Technology''), among others. The investment authority granted by the Commission has been limited to capital contributions in an aggregate amount of approximately $3.907 million and a working capital line of credit of up to $6 million.

EEIC and EUAB now request authority to construct, install, operate and maintain two biomass-fired generation facilities (each a ''BIOTEN Unit') using the BIOTEN Technology for a customer located in India (''First Customer''). Each such Unit would be fueled by First Customer's available biomass in the form of bagasse (a sugar cane by-product), and would be completely installed, tested, demonstrated and purchased on a turnkey basis.

EUABP will provide the funds required for the construction of the first BIOTEN Unit and First Customer will issue a promissory note to secure its obligations to pay the purchase price for the unit to EUABP. Title to the first BIOTEN Unit will pass when construction of the unit has been completed. Following completion of the unit, the unit will undergo a demonstration period of up to twelve months. EEIC and EUAB anticipate that First Customer will repay its obligations under the note and make all payments necessary to purchase the first BIOTEN Unit upon the successful completion of the demonstration period.

First Customer will provide the funds required to complete the second BIOTEN Unit and will take title to the unit once all payments necessary to purchase the unit have been made. First

to total of $500 million of guarantee obligations of its subsidiary companies.

[3] HELCO was merged with and into CL&P on June 30, 1982.

Customer will have no obligation to purchase either BIOTEN Unit if the first unit does not satisfy agreed upon performance criteria.

EEIC and EUAB also request authority for EUABP to finance, construct, install and sell BIOTEN Units to other customers, both inside and outside the United States, and to provide related services and products for First Customer and other purchasers of BIOTEN Units. These services include engineering, procurement and construction services, sales, installation and long term operation and maintenance services, equipment and training support, and promotion and marketing services in connection with the BIOTEN Units. These products would consist of components to be used for the BIOTEN Units and may be manufactured locally, subject to appropriate licensing arrangements with respect to the BIOTEN Technology. EUABP may pursue these activities either by itself or through the establishment of one or more special purpose subsidiaries or joint ventures with local nonassociates (''Special Purpose Entities''). EEIC and EUAB assert that none of the proposed activities with respect to First Customer or other customers (''Proposed Activities'') would constitute the ownership or operation of an electric utility company within the meaning of section 2(a)(3) of the Act.

In addition, EEIC and EUAB request authority to increase and extend their authority to invest in EUABP and/or the Special Purpose Entities. Specifically, EEIC and EUAB request authority, through December 31, 2002 to increase the working capital line of credit from $6 million to $13 million and to make capital contributions not to exceed $8.907 million outstanding at any one time. EEIC and EUAB also request authority for EUABP to invest up to these amounts in the Special Purpose Entities. As a result of these investments, EUAB's voting interest in EUABP would increase from 9.9% to approximately 80% and EUABP would become a subsidiary of EUAB. Investments in the Proposed Activities would be limited to these amounts.

Also, EEIC and EUAB request authority for EUABP to render services in connection with the Proposed Activities to those Special Purpose Entities which are subsidiaries of EUABP under an exemption from the cost standard of section 13(b) of the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Maragret H. McFarland,

Deputy Secretary.

[FR Doc. 98–2885 Filed 2–4–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–23014; 812–10908]

The Sessions Group, et al.; Notice of Application

January 30, 1997.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the ''Act'').

Summary of Application: Applicants request an order under sections 6(c) and 17(b) of the Act for an exemption from section 17(a) of the Act to permit common trust funds sponsored by Financial Trust Services, Inc. (''Trust Company'') to transfer substantially all of their assets to series of The Sessions Group (''Sessions''), in exchange for shares of the series.

Applicants: Sessions, Keystone Financial, Inc. (''Keystone''), Martindale Andres & Company, Inc. (''Adviser''), Trust Company, Collective Investment Fund A (''Fund A''), and Common Stock Fund (''Stock Fund'') (Fund A and Stock Fund are collectively ''Common Trust Funds'').

Filing Date: The application was filed on December 23, 1997. Applicants have agreed to file an amendment during the notice period, the substance of which is included in this notice.

Hearing or Notification of Hearing: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on February 24, 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 who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants, c/o Michael P. Malloy, Drinker Biddle & Reath LLP, Philadelphia National Bank Building, 1345 Chestnut Street, Philadelphia, PA 19107–3496.

FOR FURTHER INFORMATION CONTACT: John K. Forst, Attorney Advisor, at (202) 942–0569, or Mary Kay Frech, Branch Chief, 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 at the SEC's Public Reference Branch, 450 Fifth Street, N.W., Washington, D.C. 20549 (tel. 202–942–8090).

Applicants' Representations

1. Sessions is a business trust organized under Ohio law and registered under the Act as an open-end management investment company. Sessions currently offers its shares to the public in several series with different investment objectives and policies. Adviser is an investment adviser registered under the Investment Advisers Act of 1940 and a wholly-owned subsidiary of Keystone, a bank holding company.

2. Keystone maintains a defined benefit pension plan (''Parent Company Plan'') for the benefit of employees of Keystone and its subsidiaries. The Parent Company Plan owns more than 5% of the outstanding voting shares of the KeyPremier Established Growth Fund (''Growth Fund'') and KeyPremier Intermediate Term Income Fund (''Income Fund''), each a series of Sessions (the ''Mutual Funds''). Adviser acts as investment adviser to the Mutual Funds.

3. The Common Trust Funds are common trust funds as defined in Section 584(a) of the Internal Revenue Code of 1986, as amended. The Common Trust Funds are maintained by Trust Company exclusively for the collective investment and reinvestment of moneys contributed by Trust Company in its capacity as a trustee, executor, administrator, or guardian. The persons and entities for which Trust Company acts in such capacity are referred to as ''Participants'' in the Common Trust Funds. The Common Trust Funds are excluded from the definition of investment company under section 3(c)(3) of the Act.

4. Applicants propose to transfer the assets held by Fund A to the Growth Fund and the Income Fund in exchange for shares of the Growth Fund and the Income Fund. Applicants also propose to transfer the assets held by Stock Fund to the Growth Fund in exchange for shares of the Growth Fund. Shares of

the Mutual Funds to be issued in the transactions would not be subject to a front-end or deferred sales charge, a redemption fee, any asset-based distribution fee, or any shareholder servicing fee. Common Trust Fund assets to be transferred to the Mutual Funds will be valued in accordance with the provisions of rule 17a–7(b) under the Act, and the Mutual Funds' shares issued will have an aggregate net asset value equal to the value of the Common Trust Funds' assets transferred. Following the proposed transactions, the Common Trust Funds will be terminated, and the Mutual Fund shares issued will be held by Trust Company directly as trustee, executor, administrator, or guardian. The Mutual Fund shares held by Trust Company, as fiduciary, will be credited to the benefit of each Participant, *pro rata*, according to each Participant's interest in the particular Common Trust Fund immediately prior to the transactions.

5. Applicants state that the proposed transactions will be carried out in accordance with procedures previously adopted by Sessions' board of trustees pursuant to rule 17a–7(e) of the Act, and the provisions of rule 17a–7(c), (d), and (f) will be satisfied with respect to Sessions. Applicants assert that the investment objectives and policies of Growth Fund and Income Fund, and the securities they hold, are generally similar to those of the Stock Fund and Fund A, respectively. In addition, Sessions' board of trustees, including a majority of the trustees who are not interested persons, will determine, prior to the consummation of the transactions, that participation by the Mutual Funds in the proposed transactions is in the best interests of the Mutual Funds and that the interests of existing Mutual Fund shareholders will not be diluted as a result of the transactions. These findings, and the basis upon which they were made, will be fully recorded in the minute books of Sessions.

6. Trust Company, as the Common Trust Funds' trustee, will have determined in accordance with its fiduciary duties that the proposed transactions are in the best interests of Participants in the Common Trust Funds. In making this determination, Trust Company will take into account the anticipated benefits which are expected to flow to Participants, including increased liquidity, the availability of daily pricing, the accessibility of performance and other information concerning the Mutual Funds, the similarity of Common Trust Funds' and the Mutual Funds' investment objectives and policies, the anticipated tax treatment of the proposed transactions, and the aggregate fee levels experienced and expected to be experienced by Participants before and after the proposed transactions.

7. In some instances, Trust Company will be required to obtain the consent or direction of the party having investment authority regarding a Participant's inclusion in the transactions. In the remaining instances, Trust Company, acting alone in its fiduciary capacity, is authorized by such instruments and applicable law to approve and cause the Participant to be included in the proposed transactions. In all instances, information concerning the proposed transactions, the Mutual Funds, applicable fee schedules, and other related information will be provided to Participants before the proposed transactions take place.

8. Applicants also request relief for any future transactions in which common or collective trust funds for which Trust Company, or another entity controlling, controlled by, or under common control with it or Keystone, acts as trustee, transfer assets to registered open-end investment companies (or series thereof) advised by Trust Company, or by another entity controlling, controlled by, or under common control with it or Keystone, which investment companies (or series) are 5% or more owned by a defined benefit pension plan or other employee benefit plan sponsored by Trust Company or another entity controlling, controlled by, or under common control with it or Keystone (the ''Future Transactions''). Applicants state that they will rely on the requested relief with respect to Future Transactions only in accordance with the terms and conditions contained in the application.

Applicants' Legal Analysis

1. Section 17(a) of the Act, in pertinent part, prohibits an affiliated person of a registered investment company, or an affiliated person of such person, acting as principal, from selling to or purchasing from such registered company any security or other property. Section 2(a)(3) of the Act defines the term ''affiliated person'' of another person to include (a) Any person directly or indirectly owning, controlling, or holding with power to vote, 5% or more of the outstanding voting securities of such other person; (b) any person directly or indirectly controlling, controlled by, or under common control with, such other person; and (c) if such other person is an investment company, any investment adviser thereof.

2. Because the Common Trust Funds might be viewed as acting as principals in the proposed transactions, and because the Common Trust Funds and the Mutual Funds might be viewed as being under common control of Keystone within the meaning of section 2(a)(3)(C) of the Act, the proposed transactions may be subject to the prohibitions of section 17(a). Accordingly, applicants request an order from the SEC pursuant to sections 6(c) and 17(b) exempting them from section 17(a) of the Act, on the terms and subject to the conditions set forth in the application.

3. Section 17(b) provides that the SEC shall exempt a transaction from section 17(a) if evidence establishes that (a) The terms of the proposed transaction, including the consideration to be paid, are reasonable and fair and do not involve overreaching; (b) the proposed transaction is consistent with the policy of each registered investment company concerned; and (c) the proposed transaction is consistent with the general purposes of the Act. Rule 17a–7 exempts certain purchase and sale transactions otherwise prohibited by section 17(a) if, among other requirements, the transactions are effected at an independent ''current market price'' and the investment company's board of directors reviews the transactions for fairness. Rule 17a–8 exempts certain mergers and consolidations from section 17(a) if, among other requirements, the investment company's board of directors determines that the transactions are fair.

4. Applicants agree to comply with rules 17a–7 and 17a–8 to the extent possible stated in the conditions to the requested order. The proposed transactions will take place as in-kind transfers from the Common Trust Funds to the Mutual Funds, rather than cash transactions. Applicants assert that if the proposed transactions were effected in cash, the Common Trust Funds and the Participants would have to bear unnecessary expense and inconvenience in transferring assets to the Mutual Funds.

5. Section 6(c) of the Act provides that the SEC may exempt any person or transaction from any provision of the Act or any rule thereunder to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

6. Applicants submit that the proposed transactions satisfy the standards for relief under sections 6(c)

and 17(b). Applicants assert that the terms of the proposed transactions are reasonable and fair and do not involve overreaching on the part of any Applicant; the investment objectives, policies, and restrictions of the Common Trust Funds are compatible with and substantially similar to the applicable Mutual Funds' investment objectives, policies, and restrictions; and the proposed transactions and the requested exemption are in the public interest, consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the Act.

Applicants' Conditions

1. The proposed transactions will comply with the terms of rule 17a–7(b) through (f).

2. The proposed transactions will not occur unless and until the board of trustees of the Mutual Funds (including a majority of the board's disinterested members) find that participation by the Mutual Funds in the proposed transactions is in the best interests of such funds and that the interests of existing shareholders of such funds will not be diluted as a result of the transactions. These findings, and the basis upon which they are made, will be recorded fully in the minute books of the Mutual Funds.

3. The proposed transactions will not occur unless and until Trust Company or any entity controlling, controlled by, or under common control with it or Keystone, as trustee, has determined in accordance with its fiduciary duties as trustee for the Common Trust Funds and fiduciary for the Participants, that the proposed transactions are in the best interests of the Participants in the Common Trust Funds.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–2883 Filed 2–4–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–23013; 812–10902]

The Virtus Funds, et al.; Notice of Application

January 30, 1998.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for exemption under section 17(b) of the Investment Company Act of 1940 (the ''Act'') from section 17(a) of the Act.

SUMMARY OF APPLICATION: Applicants seek an order to permit the reorganization and consolidation of series of certain registered open-end investment companies into certain series of another registered open-end investment company.

APPLICANTS: Evergreen Municipal Trust, Evergreen Equity Trust, Evergreen Fixed Income Trust, Evergreen International Trust, Evergreen Money Market Trust (together, ''Evergreen Funds'' or ''Acquiring Funds''), The Virtus Funds (''Virtus Funds''), and First Union National Bank (the ''Bank'').

FILING DATES: The application was filed on December 19, 1997, and amended on January 27, 1998. Applicants have agreed to file an amendment to the application during the notice period, the substance of which is included in this notice.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on February 24, 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 who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants: Bank, 201 S. College Street, Charlotte, North Carolina 28288; Virtus Funds, Federated Investors Tower, Pittsburgh, Pennsylvania 15222–3779; and Evergreen Funds, 200 Berkeley Street, Boston, Massachusetts 02116.

FOR FURTHER INFORMATION CONTACT: Joseph B. McDonald, Jr., Senior Counsel, at (202) 942–0533, or Mary Kay Frech, Branch Chief, 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 at the SEC's Public Reference Branch, 450 Fifth Street, N.W., Washington, D.C. 20549 (tel. 202–942–8090).

Applicant's Representations

1. The Virtus Funds, a Massachusetts business trust consisting of eight series is an open-end management investment company registered under the Act. Virtus Capital Management, Inc. (''Virtus'') is registered under the Investment Advisers Act of 1940 (''Advisers Act'') and is the investment adviser for the Virtus Funds.

2. The Evergreen Funds are Delaware business trusts and each is an open-end management investment company registered under the Act. The Bank is a North Carolina corporation and a banking subsidiary of First Union Corporation, a publicly held bank holding company. The Capital Management Group, a division of the Bank, and two of its subsidiaries, Evergreen Asset Management Corp. and Keystone Investment Management Company, are the investment advisers to the Evergreen Funds. Evergreen Asset Management Corp. and Keystone Investment Management Company are each registered as investment advisers under the Advisers Act.

3. The Bank, as a fiduciary for its customers, controls, or holds with power to vote, 5% or more of the outstanding voting securities of the Virtus Funds. In addition, the Bank, as a fiduciary for its customers, owns of record or controls, or holds with power to vote, 5% or more of the outstanding voting securities of the Evergreen Funds.

4. On September 16 and 17, 1997, the board of each Evergreen Fund and Virtus Fund (together, the ''Funds'') (''Board''), including a majority of the disinterested directors/trustees, authorized plans of reorganization pursuant to which a series of the Evergreen Funds will acquire a corresponding series of the Virtus Funds with similar investment objectives (''Plans'').

Pursuant to the terms of the Plans, the Virtus Funds have agreed to sell all of their assets and certain stated liabilities to a corresponding series of the Acquiring Funds in exchange for shares of the Acquiring Fund (''Reorganization''). The number of Acquiring Fund shares to be issued in exchange for each Virtus Fund share of each class will be determined by dividing the net asset value of one Acquiring Fund share of the appropriate corresponding class by the net asset value of one Virtus Fund share of such class.

5. Holders of Investment Shares of the Virtus Funds will receive Class A shares of the corresponding Evergreen Fund and holders of Trust Shares will receive

Class Y shares of the corresponding Evergreen Fund. Each such class of shares of the Evergreen Fund has the same distribution-related fees, if any, as the shares of the class of Virtus Funds held prior to the Reorganization and no initial sales charge will be imposed in connection with Class A shares of the Evergreen Funds received by Virtus Fund shareholders.

6. The investment objectives of each Virtus Fund and its corresponding Acquiring Fund are similar. The investment restrictions and limitations of each Virtus Fund and corresponding Acquiring Fund are substantially similar, but in some cases involve differences that reflect the differences in the general investment strategies utilized by the Funds.

7. The Board of each Fund approved the Reorganization as in the best interests of existing shareholders and determined that the interests of existing shareholders will not be diluted as a result of the Reorganization. The Bank will be responsible for the expenses incurred in connection with the Reorganization.

8. The Board of each Fund considered a number of factors in authorizing the Reorganization, including: (a) The terms and conditions of the Reorganization; (b) whether the Reorganization would result in the dilution of shareholders' interests; (c) expense ratios, fees and expenses of the Funds participating in the Reorganization; (d) the comparative performance records of the Acquiring Fund and Virtus Fund; (e) compatibility of the Funds' investment objectives and policies; (f) the investment experience, expertise and resources of the Funds' advisers; (g) service features available to shareholders of the respective Acquiring Fund and Virtus Fund; (h) the fact that the Bank will bear the expenses incurred by the Funds in connection with the Reorganization other than the Acquiring Fund's federal and state registration fees; (i) the fact that the Acquiring Funds will assume certain stated liabilities of the Virtus Fund; and (j) the expected federal income tax consequences of the Reorganization.

9. The Reorganization is subject to a number of conditions precedent, including requirements that: (a) the Plans have been approved by the Boards of the Acquiring Funds and the Virtus Funds and each of such Fund's shareholders in the manner required by law; (b) the Virtus Funds and the Acquiring Funds have received opinions of counsel stating, among other things, that the Reorganization will constitute a ''reorganization'' under section 368 of the Internal Revenue Code of 1986, as amended and, as a consequence, the Reorganization will not result in Federal income taxes for the Fund or its shareholders; and (c) the Virtus Funds and the Acquiring Funds have received from the SEC an order exempting the Reorganization from the provisions of the Act as requested in the application. Applicants agree not to make any material changes to the Plans that affect the application without prior SEC approval.

Applicants' Legal Analysis

1. Section 17(a) of the Act provides that it is unlawful for any affiliated person of a registered investment company, or any affiliated person of such person, knowingly: (a) To sell any security or other property to such registered company; or (b) to purchase from such registered company any security or other property. Section 2(a)(3) of the Act defines the term ''affiliated person'' of another person to include: (a) Any person owning, controlling, or holding with power to vote, 5% or more of the outstanding voting securities of such other person; (b) any person 5% or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by such other person; (c) any person controlling, controlled by, or under common control with, such other person; and (d) if such other person is an investment company, any investment adviser of the person.

2. Rule 17a–8 under the Act exempts from the prohibitions of section 17(a) of the Act mergers, consolidations, or purchases or sales of substantially all of the assets of registered investment companies that are affiliated persons, or affiliated persons of an affiliated person, solely by reason of having a common investment adviser, common directors, and/or common officers, provided that certain conditions are satisfied. Applicants believe that the proposed transactions may not be exempt from the prohibitions of section 17(a) by reason of rule 17a–8 because the Funds may be affiliated for reasons other than those set forth in the rule. The Virtus Funds may be affiliated persons of the Bank because the Bank, as fiduciary for its customers, owns of record or controls or holds with the power to vote 5% or more of the outstanding securities of the Virtus Funds. The Bank, in turn, is an affiliated person of the Evergreen Funds because the Bank, or one of its subsidiaries, serves as adviser to the Evergreen Funds. In addition, the Evergreen Funds may be affiliated persons of the Bank because the Bank, as fiduciary for its customers, owns of record or controls or holds with the power to vote 5% or more of the outstanding securities of the Evergreen Funds and a subsidiary of the Bank (*i.e.*, Virtus) is the adviser to the Virtus Funds. Consequently. applicants are requesting an order pursuant to section 17(b) of the Act exempting them from section 17(a) to the extent necessary to complete the Reorganization.

3. Section 17(b) of the Act provides that the SEC may exempt a transaction from section 17(a) of the Act if evidence establishes that: (a) The terms of the proposed transaction, including the consideration to be paid, are reasonable and fair and do not involve overreaching on the part of any person concerned; (b) the proposed transaction is consistent with the policy of each registered investment company concerned; and (c) the proposed transaction is consistent with the general purposes of the Act.

4. Applicants submit that the Reorganization satisfies the provisions of section 17(b) of the Act. The Board of each of the Funds has determined that the transactions are in the best interests of the shareholders. In approving the Plans, the Boards of the Funds considered: (a) That the interests of Fund shareholders will not be diluted; (b) that the Virtus and Acquiring Funds' investment objectives and policies are generally substantially identical; (c) that no sales charges will be imposed; (d) that the conditions and policies of rule 17a–8 will be followed; and (e) that no overreaching by any affiliated person is occurring.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–2881 Filed 2–4–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–23012; 812–10776]

Weiss, Peck & Greer Funds Trust, et al.; Notice of Application

January 30, 1998.

AGENCY: Securities and Exchange Commission (the ''SEC'').

ACTION: Notice of application for an exemption under sections 6(c) and 17(b) of the Investment Company Act of 1940 (the ''Act'') from section 17(a) of the Act to permit in-kind redemptions of shares of certain registered open-end management investment companies held by shareholders who are affiliated persons of the investment companies.

Applicants: Weiss, Peck & Greer Funds Trust, Weiss, Peck & Greer International Fund, WPG Growth and Income Fund, WPG Growth Fund, WPG Tudor Fund, Tomorrow Funds Retirement Trust, RWB/WPG U.S. Large Stock Fund (collectively, the ''Funds''), and Weiss, Peck & Greer, L.L.C. (the ''Adviser'').

Filing Date: The application was filed on September 10, 1997, and amended on January 2, 1998. Applicants have agreed to file an amendment to the application during the notice period, the substance of which is included in this notice.

Hearing or Notification of Hearing: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on February 24, 1998 and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants, One New York Plaza, New York, New York 10004.

FOR FURTHER INFORMATION CONTACT: Joseph B. McDonald, Jr., Senior Counsel, at (202) 942–0533, or Mary Kay Frech, Branch Chief, 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 at the SEC's Public Reference Branch, 450 Fifth Street, N.W., Washington, D.C. 20549 (tel. 202–942–8090).

Applicants' Representations

1. Each Fund is an open-end management investment company registered under the Act. Weiss, Peck and Greer Funds Trust currently consists of the following series: WPG Government Money Market Fund, WPG Tax-Free Money Market Fund, WPG Government Securities Fund, WPG Intermediate Municipal Bond Fund, WPG Institutional Short Duration Fund and WPG Quantitative Equity Fund. Tomorrow Funds Retirement Trust currently consists of the following series: Tomorrow Long-Term Retirement Fund, Tomorrow Medium-term Retirement Fund, Tomorrow Short-Term Retirement Fund and Tomorrow Post-Retirement Fund. Each other Fund is a single series investment company. Each Fund is organized as a Massachusetts business trust, except Tomorrow Funds Retirement Trust and RWB/WPG U.S. Large Stock Fund, which are organized as Delaware business trusts. The overall management of each Fund rests with its board of trustees (collectively, the ''Boards''). A majority of the trustees of each Fund are not ''interested persons'' (as defined in section 2(a)(19) of the Act) (the ''Non-Interested Trustees'') of such Fund. The Adviser, registered as an investment adviser under the Investment Advisers Act of 1940, serves as the investment adviser to the Funds.

2. Shares of each Fund may be redeemed at the net asset value (''NAV'') per share next determined after the Fund's transfer agent receives a proper redemption request. The Funds' prospectuses and statements of additional information (together, the ''Prospectus'') provide that, in limited circumstances, any Fund may satisfy all or part of a redemption request by delivering portfolio securities to a redeeming shareholder. The Boards, including a majority of the Non-Interested Trustees, have determined that the Funds should retain the discretion to effect redemptions in-kind to protect a Fund from the potentially adverse impact of liquidating a significant amount of portfolio securities in order to satisfy in cash a redemption request by a Covered Shareholder (as defined below).

3. Applicants request relief pursuant to sections 6(c) and 17(b) of the Act to exempt applicants from the provisions of section 17(a) of the Act to permit a shareholder who is an ''affiliated person'' of the Fund solely as a consequence of the shareholder's ownership of 5% or more of the outstanding voting securities of the Fund (''Covered Shareholder'') to redeem shares of beneficial interest of the Fund in-kind (collectively, ''Covered Shareholder Redemptions''). Applicants request that the relief extend to any registered open-end management investment company created in the future and each series thereof as well as each series of the Fund created in the future for which the Adviser, or a person controlling, controlled by, or under common control with the Adviser, acts as adviser of principal underwriter (collectively, ''Future Funds''). Accordingly, with respect to Covered Shareholder Redemptions, references to the terms ''Fund'' or ''Funds'' include Future Funds. All registered open-end management investment companies that intend currently to rely on the order requested are named as applicants. Any Future Fund that relies on the order requested will do so only in accordance with the terms and conditions contained in the application.

4. Securities distributed to Covered Shareholders in connection with redemptions in-kind will be valued by the same method as used to calculate a Fund's NAV per share.

5. In connection with a redemption in-kind by a Covered Shareholder, portfolio securities of a Fund may be distributed *pro rata* after excluding: (a) Securities which may not be publicly offered or sold without registration under the Securities Act of 1933; (b) securities issued by entities in countries which (i) Restrict or prohibit the holding of securities by non-nationals other than through qualified investment vehicles, such as the Funds, or (ii) permit transfers of ownership of securities to be effected only by transactions conducted on a local stock exchange; (c) certain portfolio positions (such as forward foreign currency contracts, futures and options contracts, swap transactions and repurchase agreements) that, although they may be liquid and marketable, involve the assumption of contractual obligations, require special trading facilities or can only be traded with the counterparty to the transaction to effect a change in beneficial ownership; (d) cash equivalents (such as certificates of deposit, commercial paper and repurchase agreements); and (e) other assets which are not readily distributable (including receivables and prepaid expenses). In addition, portfolio securities representing fractional shares, odd lot securities and accruals on such securities may be excluded from portfolio securities distributed in-kind to a Covered Shareholder. Collectively all such assets are ''Excluded Assets.''

6. Each Fund has elected to be governed by the provisions of rule 18f–1 under the Act committing the Funds to pay in cash all requests for redemption by any shareholder of record, limited in amount with respect to each shareholder during any 90-day period to the lesser of $250,000 or 1% of the applicable Fund's NAV at the beginning of such period. Thus, the Funds may only satisfy redemption requests in-kind in accordance with rule 18f–1.[1]

[1] With respect to a Fund created in the future, the Adviser does not expect that such Fund will make

7. If a Fund subject to an election under rule 18f–1 determines to satisfy a redemption request of a Covered Shareholder in-kind, it will pay the first $250,000 or 1% of the Fund's NAV, whichever is less, in cash or cash equivalents and the remainder in the form of a proportionate distribution of the portfolio securities held by the Fund, other than Excluded Assets. If a Fund not subject to an election under rule 18f–1 determines to satisfy a redemption request by a Covered Shareholder in-kind, it will pay all redemption proceeds in the form of a proportionate distribution of the portfolio securities held by the Fund, other than Excluded Assets. Cash will be paid for the portion of the in-kind distribution represented by Excluded Assets.

Applicants' Legal Analysis

1. Section 17(a)(2) of the Act makes it unlawful for an affiliated person of a registered investment company, or an affiliated person of such a person, acting as principal, to knowingly purchase from the registered investment company any security or other property (except securities of which the seller is the issuer). Section 2(a)(3)(A) of the Act defines ''affiliated person'' to include any person owning 5% or more of the outstanding voting securities of the other person. Each Covered Shareholder of a Fund will own beneficially 5% or more of a Fund's shares and, thus, will be an affiliated person of that Fund. To the extent that a proposed in-kind redemption would involve the ''purchase'' of portfolio securities (of which the affected Fund is not the issuer) by a Covered Shareholder, the proposed in-kind redemption would be prohibited by section 17(a)(2).

2. Section 17(b) of the Act provides that, notwithstanding section 17(a), the SEC shall exempt a proposed transaction from section 17(a) if evidence establishes that: (a) The terms of the proposed transaction are reasonable and fair and do not involve overreaching; (b) the proposed transaction is consistent with the policy of each registered investment company involved; and (c) the proposed transaction is consistent with the general purposes of the Act.

3. Section 6(c) of the Act provides, in part, that the SEC, by order upon application may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from the provisions of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

4. Applicants submit that the terms of the proposed in-kind redemptions by Covered Shareholders meet the standards set forth in sections 6(c) and 17(b) of the Act. Applicants believe that the use of an objective, verifiable standard for the selection and valuation of any securities to be distributed in connection with a redemption in-kind will ensure that the redemption will be on terms that are reasonable and fair to the Funds, their shareholders and the Covered Shareholders and will not involve overreaching on the part of any person. Similarly, the proposed in-kind redemptions are consistent with the investment policies of the Funds, as set forth in the Funds' Prospectuses, which expressly disclose the Funds' ability to redeem shares in-kind. Finally, applicants believe that the terms of the proposed transactions are reasonable and fair to all parties and are consistent with the protection of investors and the provisions, policies and purposes of the Act.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. The securities distributed to both Covered Shareholders and nonaffiliated shareholders pursuant to a redemption in-kind (the ''In-Kind Securities'') will be limited to securities that are traded on a public securities market or for which market quotations are available.

2. The In-Kind Securities will be distributed by each Fund on a *pro rata* basis after excluding: (a) Securities which may not be publicly offered or sold without registration under the Securities Act of 1933; (b) securities issued by entities in countries which: (i) Restrict or prohibit the holding of securities by non-nationals other than through qualified investment vehicles, such as the Funds or (ii) permit transfers of ownership of securities to be effected only by transactions conducted on a local stock exchange; (c) certain portfolio positions (such as forward foreign currency contracts, futures and options contracts, swap transactions and repurchase agreements) that, although they may be liquid and marketable, involve the assumption of contractual obligations, require special trading facilities or can only be traded with the counterparty to the transaction to effect a change in beneficial ownership; (d) cash equivalents (such as certificates of deposit, commercial paper and repurchase agreements); and (e) other assets which are not readily distributable (including receivables and prepaid expenses). In addition, portfolio securities representing fractional shares, odd lot securities and accruals on such securities may be excluded from portfolio securities distributed in-kind to a Covered Shareholder. Cash will be paid for the portion of the in-kind distribution represented by the Excluded Assets set forth above less liabilities (including accounts payable).

3. The In-Kind Securities distributed to the Covered Shareholders will be valued in the same manner as they would be valued for purposes of computing each Fund's net asset value.

4. The Funds' Boards, including a majority of the Non-Interested Trustees, will determine no less frequently than annually: (a) Whether the In-Kind Securities, if any, have been distributed in accordance with conditions 1 and 2; (b) whether the In-Kind Securities, if any, have been valued in accordance with condition 3; and (c) whether the distribution of any such In-Kind Securities is consistent with the policies of each affected Fund as reflected in its Prospectus. In addition, the Boards will make and approve such changes as they deem necessary in the procedures for monitoring the Funds' compliance with the terms and conditions of this application.

5. Each Fund will maintain and preserve for a period of not less than six years from the end of the fiscal year in which a Proposed In-Kind Redemption by a Covered Shareholder occurs, the first two years in an easily accessible place, a written record of such redemption setting forth a description of each security distributed in-kind, the identity of the Covered Shareholder, the terms of the in-kind distribution, and the information or materials upon which the valuation was made.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–2882 Filed 2–4–98; 8:45 am]

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an election pursuant to rule 18f–1 under the Act. Therefore, such Fund will not be limited by the requirements of the rule 18f–1 with respect to the amount of a redemption request that may be satisfied in-kind.

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–23015]

Notice of Applications for Deregistration Under Section 8(f) of the Investment Company Act of 1940

January 30, 1998.

The following is a notice of applications for deregistration under section 8(f) of the Investment Company Act of 1940 for the month of January, 1998. A copy of each application may be obtained for a fee at the SEC's Public Reference Branch, 450 Fifth St., N.W., Washington, D.C. 20549 (tel. 202–942–8090). An order granting each application will be issued unless the SEC orders a hearing. Interested persons may request a hearing on any application by writing to the SEC's Secretary at the address below and serving the relevant 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 24, 1998, and should be accompanied by proof of service on the 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 who wish to be notified of a hearing may request notification by writing to the Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. For Further Information Contact: Diane L. Titus, at (202) 942–0564, SEC, Division of Investment Management, Office of Investment Company Regulation, Mail Stop 5–6, 450 Fifth Street, N.W., Washington, D.C. 20549.

Value Line Intermediate Bond Fund, Inc.

[File No. 811–6482]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On September 19, 1997, applicant distributed its net assets to its shareholders at the net asset value per share. Approximately $17,000 of expenses were incurred by the Fund in connection with the liquidation. In addition, the Adviser paid approximately $15,000 for the cost of printing, assembling and mailing the Notice of Special Meeting of Shareholders and Proxy Statement in connection with the meeting of shareholders to vote on the liquidation and dissolution.

Filing Date: The application was filed on October 16, 1997.

Applicant's Address: 220 East 42nd Street, New York, New York 10017–5891.

Kemper Premier Trust, Sterling Funds, Mexico Growth Fund Inc., and Kemper Target Maturity Income Fund

[File Nos. 811–5927, 811–8210, 811–6429, and 811–6695]

Summary: Each applicant seeks an order declaring that it has ceased to be an investment company. Each applicant abandoned its intention to operate before it received any assets. Each applicant never issued securities.

Filing Date: The applications were filed on December 10, 1997.

Applicant's Address: 222 South Riverside Plaza, Chicago, IL 60606.

New USA Mutual Funds, Inc.

[File No. 811–6519]

Summary: Applicant requests an order declaring that it has ceased to be an investment company. On June 2, 1997, applicant transferred its assets and liabilities to the MSS Emerging Growth Fund, a portfolio of MSS Series Trust II, based on the relative net asset value per share. Applicant's investment adviser, New USA Research & Management Co., paid approximately $916,400 in expenses related to the transaction.

Filing Dates: The application was filed on September 9, 1997, and amended on January 6, 1998.

Applicant's Address: c/o State Street Bank and Trust Company, 1776 Heritage Drive, North Quincy, MA 02171.

Trans Adviser Funds, Inc.

[File No. 811–9068]

Summary: Applicant requests an order declaring that it has ceased to be an investment company. On August 29, 1997, applicant's five series, the Aggressive Growth Fund, the Growth/Value Fund, the Intermediate Bond Fund, the Kentucky Tax-Free Fund, and the Money Market Fund, transferred their assets and liabilities to identically-named corresponding series on the Countrywide Strategic Trust, Countrywide Investment Trust, and Countrywide Tax-Free Trust (collectively, ''Countrywide Trusts''), based on the relative net asset values per share. Countrywide Trusts' investment adviser, Countrywide Investment, Inc., paid approximately $141,000 in expenses related to the transaction.

Filing Dates: The application was filed on October 24, 1997, and amended on January 21, 1998.

Applicant's Address: Two Portland Square, Portland, Maine 04101.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–2884 Filed 2–4–98; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39603; File No. SR–CHX–97–36]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Stock Exchange, Inc. and Amendment No. 1 to the Proposed Rule Change Relating to the Structure and Composition of the Board of Governors

January 30, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on December 16, 1997, the Chicago Stock Exchange, Incorporated (''CHX'' or ''Exchange'') 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 self-regulatory organization. Amendment No. 1 to the proposed rule change was received by the Commission on January 20, 1998.[2] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Articles, III, IV and V of its Constitution and Article IV, Rules 7, 8 and 10 of its Rules relating to the structure and composition of its Board of Governors.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received

[1] 15 U.S.C. 78s(b)(1).

[2] Letter from Joseph M. Klauke, Foley & Lardner to Katherine A. England, Assistant Director, Division of Market Regulation, Commission dated January 16, 1998. Several additional non-substantive changes to the proposed rule change are also included in this Notice. Telephone call between Joseph M. Klauke, Foley & Lardner and Mandy S. Cohen, Division of Market Regulation, Commission dated January 27, 1998.

on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend the Exchange's Constitution and Rules to promote an enhanced governance structure for the Exchange. The proposed changes are based upon recommendations made by the Exchange's Governance Committee, whose purpose it is to review and make recommendations regarding the Exchange's governance structure, including the operations of the Exchange and the composition of its Board, committees, and other entities involved in the Governance of the Exchange.

The most significant proposed changes to the Constitution and Rules concern reducing the size of the Board and changing its composition. The Constitution currently provides for a Board composed of twenty-seven Governors. The proposed changes would reduce that number to twenty-four. Reducing the size of the Board will make deliberations more efficient and manageable. Given the Exchange's withdrawal from the clearance and settlement and securities depository businesses, and recent sale of the Exchange's remaining operating subsidiary, a smaller Board is appropriate.

The Board currently consists of the Vice Chairman of the Board, the President, sixteen Governors who are members, general partners of member firms or officers of member corporations (''Member Governors'') and nine Governors who are unaffiliated with the Exchange or any broker or dealer in securities (''Non-member Governors''). The proposed changes would reduce the number of Member governors to ten and increase the number of Non-member Governors to twelve (and re-categorize them as ''Non-Industry'' as described below). The result would be a fifty percent representation of Non-Industry Governors on the board.

The amendments include a series of new definitions. Currently, there are no definitions of the terms ''Non-Industry'' and ''Public.'' The definitions set forth in the amendments preclude the possibility that someone with other than a nominal connection with the securities industry could be considered Non-Industry.

The definition of Non-Industry encompasses one who is a Public governor or committee member, an officer or employee of an issuer of securities listed exclusively on the Exchange, or any other individual who:

- Is not, or has not served in the prior three years (or such lesser period as deemed appropriate by the Exchange, in its discretion, but not less than one year), as an officer, director, or employee of a broker or dealer and has not had (within the same time period specified above) an ownership interest in a broker or dealer that permits him or her to be engaged in the day-to-day management of a broker or dealer. However, an outside director or a director not engaged in the day-to-day management of a broker or dealer may be considered ''Non-Industry;''
- is not an officer, director (not including an outside director), or employee of an entity that owns more than ten percent of the equity of a broker or dealer that accounts for more than five percent of the entity's gross revenues;
- does not own more than five percent of the equity securities of any broker or dealer, whose investments in brokers or dealers do not exceed ten percent of his or her net worth, or whose ownership interest does not otherwise permit him or her to be engaged in the day-to-day management of a broker dealer;
- does not provide and whose firm does not provide professional services to brokers or dealers that constitute twenty percent or more of his or her professional revenues or twenty percent or more of the gross revenues received by the individual's firm;
- does not provide and whose firm does not provide professional services to a director, officer, or employee, in their professional capacities, or a broker, dealer, or corporation that owns fifty percent or more of the voting stock of a broker or dealer, and which constitute twenty percent or more of his or her professional revenues or twenty percent or more of the gross revenues received by the individual's firm; and
- has not had a consulting or employment relationship with and has not provided professional services to the Exchange at any time within the last three years.

The definition of ''Public'' is an individual who has no material business relationship with a broker or dealer, or the Exchange. At least five of the Non-Industry Governors must be ''Public,'' and therefore unaffiliated with the brokerage industry in any material way.

Specific definitions of the types of Member Governors will also be included. ''On Floor'' when used in the context of Governors and committee members will mean members who are primarily engaged in business on the Exchange's trading floor or persons associated with member organizations primarily engaged in business on the Exchange's trading floor.[3] ''Off-Floor'' when used in the context of Governors and committee members, will mean members and persons associated with member organizations who are not ''On-Floor.'' In addition, the proposed amendments will require a minimum of four On-Floor Member Governor positions and four Off-Floor Member Governor positions.

Also the rules currently require nine of the Member Governors to be from the Chicago area and seven to be from elsewhere. The proposed amendments will eliminate the distinction.

In addition to requiring a balanced Board, the proposed amendments also require that not less than fifty percent of the members of the Executive Committee, the Compensation Committee and the Audit Committee be ''Non-Industry'' (including at least one Public Governor on the Compensation Committee and the Audit Committee), and that the Nominating Committee be composed of fifty percent Non-Industry and fifty percent Member representatives. Currently, the Audit, Executive, and Compensation Committees have this balance, but such balance is not required. The Nominating Committee currently has five members, two of which are Non-Industry. The change to require balanced committees would be effective upon SEC approval of the proposed rule change for these committees, except the Nominating Committee. One additional Non-Industry person would be added to the Nominating Committee to achieve balance in conjunction with the 1999 Annual Election.

Currently there are no provisions in the Exchange's Constitution or Rules which specify the Member/Non-Industry makeup of a quorum. The current quorum requirement for the Board and the Compensation and Audit Committees is one-half of their

[3] The current Constitution and Rules refer to those persons who are ''active on the floor of the Exchange'' as floor Governors, although a specific definition is not included. These persons have been interpreted to include floor members acting as, *i.e.*, floor brokers, market makers or specialists. The definition of ''On-Floor'' is somewhat broader in scope, and will include all persons associated with floor members under the current interpretation.

members, and for the Executive and Nominating Committees, a majority of their members. Under the proposed amendments, a quorum for the transaction of business on the Board of Governors, the Nominating Committee, the Executive Committee, the Compensation Committee and the Audit Committee would also require not less than fifty percent of the number of Non-Industry Board members or committee members, as applicable. To lessen the possibility that the Exchange would not be able to transact business because at least half of the Non-Industry Board or Committee members cannot attend a meeting, the proposed amendment would allow the Exchange to obtain pre-meeting waivers of attendance from the Non-Industry Board or Committee members. If at least fifty percent of the Non-Industry Board or Committee members are either present at a meeting or have waived their attendance for the meeting after receiving notice of, and an agenda for, such meeting, then the requirement that at least fifty percent of the Non-Industry Board or Committee members be present to constitute a quorum will be deemed satisfied.

Term limits for Governors will also be changed under the proposed amendments. Currently, Member Governors who have served all or part of two terms must be off the Board for a minimum of one year before they may again serve in such capacity. Non-member Governors currently have no term limit. The proposed changes impose a three term limit on both Non-Industry and Member Governors. In addition, partial terms will no longer count towards the term limit. After serving three complete terms, Governors would have to remain off the Board in such capacity for a minimum of two years (an increase from the current one year hiatus requirement).

The proposed rule changes also impose an attendance requirement on Governors. It will require a Board member to attend seventy-five percent of the full Board meetings on an annual basis (*e.g.*, four out of five Board meetings) or face removal from the Board. The CHX believes that Board member participation is extremely important and should be required in order for a Governor to continue on the Board.

Taken as a whole, the changes brought about the proposed amendments will have a beneficial impact on the Board and the Exchange. Changing the composition of the Board to increase the number and percentage of Non-Industry Governors will help diversify the Board and broaden its perspective. Requiring a Member/Non-Industry balance for the Board and certain committees in terms of membership and quorums will ensure that diverse and representative bodies are participating in the Exchange's business and decision-making processes. Eliminating the geographical distinction for Member Governors will provide the Nominating Committee with more flexibility and will eliminate an arbitrary distinction in recognition of the Exchange's national constituency. Imposing term limits on all Governors will foster a healthy influx of fresh perspectives on the Board. Setting attendance requirements will promote attendance and thus enhance participation in Board meetings.

To prevent undue disruption of the Board, the transition from the Board as currently constituted to the Board required by the proposed amendments will occur over the course of the next three years. It will involve normal attrition due to Governors reaching the end of term limits as currently set, necessitating an adjustment in the phase-in of the three term limit. Member Governors completing their second full or partial term in the Classes expiring in 1998 and 1999 would continue to have a two term limit (and thus would not be eligible for re-election at that time) and Non-Industry Governors completing their third full term (or more) in those two classes would be permitted to serve out their existing term plus be eligible for one additional term. These transition-related rules are designed to facilitate the changes in board size and composition described above.

The transition will also require adjustments to the sizes of the Classes of Governors. The Governors will still be divided into three Classes, but the size and composition will be adjusted as follows: At the 1998 annual election, Class I will be reduced by two Member Governors. At the 1999 annual election, Class II will be reduced by four Member Governors. At the 2000 annual election, Class III will be reduced by one Member Governor and Class II will be increased by one Member Governor. The Board of Governors will be increased by three Non-Industry Governors by the 1999 annual election to serve for staggered terms so as to balance the Classes as determined by the Nominating Committee.

Also proposed are certain technical changes to the Constitution. The first would codify a current practice that the Chairman cannot be an On-Floor Member. In approving changes to the Exchange's Constitution in 1992 to require a floor member Vice Chairman, the SEC, in its approval order, stated its view that the Chairman's position should not also be held by a floor member.[4] The proposed amendment explicitly states this in the Constitution.

In addition, the proposed changes would amend the Constitution so that no person shall participate in the ''determination'' as opposed to ''adjudication'' (as currently worded) of any matter in which he or she is personally interested. This change would expand the coverage of this provision, which pertains to disqualification of Governors from participation in Board actions. In order to prevent the scope of the provision from being too broad, language has been added that makes it clear that Member Governors are not precluded (by being deemed personally interested) from participating in decisions in the normal course of business that affect members of classes of members in general.

Finally, a number of other revisions to the Constitution and Rules are proposed for the sake of organization or accuracy. For instance, the term ''member,'' when used in Article IV, Sections 3 and 4 of the Constitution (regarding the Nominating Committee) to refer to a member of the committee or a Class and not necessarily a member of the Exchange is being changed to ''person'' or otherwise modified whenever necessary for clarification. In addition, the reference to ''member'' in Article IV, Section 14 of the Constitution (regarding voting designees) is being clarified to specifically refer to a member of the Exchange. Further, Article IV, Rules 7 and 8 of the Rules (regarding the Compensation Committee and the Audit Committee) are being amended to reflect the use of the terms Non-Industry and On-Floor.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b)(3) of the Act[5] in that more Governors shall be representative of investors and not associated with a member of the Exchange, broker or dealer while promoting the opportunity to assure fair representation of CHX members in the selection of nominees for Governors and the administration of the affairs of the Exchange. Additionally, the Exchange believes it is consistent with Section 6(b)(5) of the Act[6] as it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable

[4] Securities Exchange Act Release No. 31633 (December 22, 1992), 57 FR 62402 (December 30, 1992) (File Nos. SR–MSE–92–12 and SR–MSE–92–13).

[5] 15 U.S.C. 78s(b)(3).

[6] 15 U.S.C. 78s(b)(5).

principles of trade and in general to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such other period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will: (A) by order approve such proposed rule change, or (B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. 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 submissions, 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 five U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the CHX. All submissions should refer to File No. SR–CHX–97–36 and should be submitted by February 26, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–2886 Filed 2–4–98; 8:45 am]

BILLING CODE 8010–01–M

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39594; File No. SR–NASD–97–91]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to Issuer Filings of Periodic Reports Through the EDGAR System

January 28, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on January 26, 1998, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association''), through its wholly owned subsidiary, The Nasdaq Stock Market, Inc. (''Nasdaq''), filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Nasdaq.[2] 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

Nasdaq, pursuant to Rule 19b–4 under the Act, is herewith filing a proposed rule change to NASD Rule 4310 (''Rule 4310'') and NASD Rule 4320 (''Rule 4320'') to permit issuers that file periodic reports through the SEC's Electronic Data Gathering, Analysis, and Retrieval (''EDGAR'') system to stop submitting separate paper filings with Nasdaq. The full text of the proposed rule change is provided below in Exhibit A.

[1] 15 U.S.C. 78s(b)(1).

[2] On January 26, 1998, Nasdaq filed Amendment No. 1 to the proposal. *See* Letter from Robert E. Aber, Vice President and General Counsel, Nasdaq, to Katherine England, Assistant Director, Division of Market Regulation, Commission, dated January 23, 1998 (''Amendment No. 1''). The NASD initially submitted the proposal on December 12, 1997. At the staff's request, however, the NASD filed Amendment No. 1 to the proposed rule change on January 26, 1998. Amendment No. 1 makes technical corrections to proposed rule language and clarifies issues relating to the purpose of, and statutory basis for, the proposed rule change.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. 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

Rule 4310(c)(14) and Rule 4320(e)(12) require issuers to file with the Association and Nasdaq, respectively, three copies of all reports filed or required to be filed with the Commission. Rule 4310(c)(14) also requires the filing of three copies of ''other documents'' filed or required to be filed with the Commission. Effective July 1, 1997, Nasdaq implemented its electronic interface with the EDGAR system, the SEC's on-line database and filing service. The link provides Nasdaq with direct access to an issuer's electronic filings with the Commission. Electronic filing enables companies to disseminate information to investors and market participants at a faster and more cost-effective rate than traditional paper-based filing methods.[3] To relieve companies of the burden and cost of providing separate paper copies of filings to Nasdaq, the proposed rule change provides that a company that files its periodic reports through EDGAR fulfills its filing obligations under NASD Rule 4310 and NASD Rule 4320 and is not required to file hard copies with Nasdaq. The proposed rule change does not affect companies that do not use EDGAR and instead continue to file paper reports with the SEC. These companies are still required to provide three copies of all filings to Nasdaq pursuant to Rule 4310 or Rule 4320. Finally, the proposed rule also makes conforming changes to Rule 4320. Specifically, the proposed rule change conforms the text of Rule 4320(e)(12) to the text of Rule 4310(c)(14) by clarifying

[3] *See* Rulemaking for EDGAR Systems, Securities Act Release No. 6944 (July 23, 1992), 57 FR 35070 (Aug. 9, 1992); Rulemaking for EDGAR Systems, Securities Act Release No. 6977 (Feb. 23, 1993), 58 FR 14628 (Mar. 18, 1993); and Use of Electronic Media for Delivery Purposes for discussions of the benefits of electronic filing, Securities Act Release No. 7233 (Oct. 6, 1995), 60 FR 53458 (Oct. 12, 1995).

that the rule requires the filing with Nasdaq of ''other documents'' and by clarifying that the rule applies to all reports and other documents filed with the Commission, even if they are not required to be filed.

Nasdaq believes that the proposed rule change is consistent with Section 15A(b)(6) of the Act. Section 15A(b)(6) requires, among other things, that the rules of a national securities association be designed to prevent fraudulent and manipulative acts and practices, and to remove impediments to and perfect the mechanism of a free and open market and a national market system. The use of electronic filing will permit Nasdaq to have access to information quickly and efficiently, thus assisting Nasdaq in the application of its rules designed to prevent fraudulent and manipulative acts and practices. The acceptance of electronic filings by Nasdaq also removes an impediment to those companies that file electronically with the SEC because those companies no longer will be required to separately file paper copies with Nasdaq.

(B) Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has become effective immediately upon filing pursuant to Section 19(b)(3)(A)(i) and (iii) of the Act and paragraph (e) of Rule 19b–4 thereunder because the proposed rule change constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule of the NASD and is concerned solely with the administration of the NASD. The proposed rule change merely provides an alternative method for an issuer to satisfy an existing requirement in the NASD Rules to provide information to Nasdaq, thereby removing an unnecessary burden on companies that file electronically with the Commission through EDGAR, and will not affect the availability of information to Nasdaq or investors. At any time within 60 days of the filing of such 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 such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–97–91 and should be submitted by February 26, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[4]

Margaret H. McFarland,

Deputy Secretary.

Exhibit A—Proposed New Language Is in Italics

* * * * *

4310. Qualification Requirements for Domestic and Canadian Securities

(a)–(b) No change.

(c) In addition to the requirements contained in paragraph (a) or (b) above, and unless otherwise indicated, a security shall satisfy the following criteria for inclusion in Nasdaq:

(1)–(13) No change.

(14) The issuer shall file with the Association three (3) copies of all reports and other documents filed or required to be filed with the Commission. *This requirement is considered fulfilled for purposes of this paragraph if the issuer files the report or document with the Commission through the Electronic Data Gathering, Analysis, and Retrieval (''EDGAR'') system.* An issuer that is not required to file reports with the Commission shall file with the Association three (3) copies of reports required to be filed with the appropriate regulatory authority. All required reports shall be filed with the Association on or before the date they are required to be filed with the Commission or appropriate regulatory authority. Annual reports filed with the Association shall contain audited financial statements.

(15)–(27) No change.

(d) No change.

Rule 4320. Qualification Requirements for Non-Canadian Foreign Securities and American Depositary Receipts

(a)–(d) No change.

(e) In addition to the requirements contained in paragraphs (a), (b), or (c) and (d), the security shall satisfy the following criteria for inclusion in Nasdaq:

(1)–(11) No change.

(12) The issuer shall file with Nasdaq three (3) copies of all reports *and other documents filed or* required to be filed with the Commission. *This requirement is considered fulfilled for purposes of this paragraph if the issuer files the report or document with the Commission through the Electronic Data Gathering, Analysis, and Retrieval (''EDGAR'') system.* All required reports must be filed with Nasdaq on or before the date they are required to be filed with the Commission.

(13)–(23) No change.

(f) No change.

[FR Doc. 98–2887 Filed 2–4–98; 8:45 am]

BILLING CODE 8010–01–M

[4] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39602; File No. SR–NSCC–97–10]

Self-Regulatory Organizations; National Securities Clearing Corporation; Order Approving a Proposed Rule Change Establishing a New Category of Fund Member for Investment Advisers in Mutual Fund Services

January 30, 1998.

On August 25, 1997, the National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change (File No. SR–NSCC–97–10) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'').[1] Notice of the proposal was published in the **Federal Register**

[1] 15 U.S.C. 78s(b)(1).

on December 15, 1997.[2] No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description

NSCC's mutual fund services (''MFS'') are designed to enable NSCC members to process and to settle on an automated basis mutual fund purchase and redemption orders and to transmit registration instructions. NSCC currently provides for two categories of fund member in MFS: (1) Principal underwriters which are registered broker-dealers under the Act and (2) investment companies which are registered under the Investment Company Act of 1940. Although the Commission previously approved amendments to NSCC's Addendum I(B)(2) of its Procedure to add standards of financial responsibility and operational capability for investment company fund members, the list of eligible fund members contained in Rule 51 was not amended to include investment companies.[3] Rule 51, Section 1 is now amended to include this category of fund member.

The proposed rule change also expands the category of eligible fund members to include registered investment advisers as defined in Section 202(a)(11) of the Investment Advisers Act of 1940. To be eligible for membership in MFS, a nonguaranteed service of NSCC, investment advisers will need (a) to be registered with the Commission under the Investment Advisers Act of 1940 and (b) to have a minimum of $25 million in assets under management and $100,000 in total net worth.

[2] Securities Exchange Act Release No. 39416 (December 9, 1997), 62 FR 65728.

[3] Securities Exchange Act Release No. 33525 (January 26, 1994), 59 FR 4959.

II. Discussion

Section 17A(b)(3)(F) of the Act[4] requires that the rules of a clearing agency be designed to facilitate the prompt and accurate clearance and settlement of securities transactions. The Commission believes that the proposed rule change is consistent with NSCC's obligations under the Act because the proposed rule change allows families of self-distributed no-load funds to join MFS through an investment adviser rather than through each of their separate investment companies. As a result, these funds will now be able to take full advantage of the benefits of a single membership, such as net settlement, reduced costs, and operational efficiencies. Thus, the proposal should reduce the number of securities movements and settlement payments needed to settle trades and therefore is consistent with the Act's goal to promote the prompt and accurate clearance and settlement of securities transactions.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–NSCC–97–10) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[5]

[4] 15 U.S.C. 78q–1(b)(3)(F).

[5] 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–2888 Filed 2–4–98; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF STATE

[Public Notice No. 2713]

Office of Defense Trade Controls; Notifications to the Congress of Proposed Commercial Export Licenses, Correction to Public Notice No. 2652

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Department of State has forwarded the attached Notifications of Proposed Export Licenses to the Congress on the dates shown on the attachments pursuant to section 36(c) and in compliance with section 36(e) of the Arms Export Control Act (22 U.S.C. § 2776).

EFFECTIVE DATE: As shown on each of the six letters attached.

FOR FURTHER INFORMATION CONTACT: Mr. William J. Lowell, Director, Office of Defense Trade Controls, Bureau of Political-Military Affairs, Department of State {(703) 875–6644}.

SUPPLEMENTARY INFORMATION: Section 38(e) of the Arms Export Control Act mandates that notifications to the Congress pursuant to section 36(c) must be published in the **Federal Register** when they are transmitted to Congress or as soon thereafter as practicable.

Dated: January 13, 1998.

William J. Lowell,

Director, Office of Defense Trade Controls.

BILLING CODE 4710–25–M

United States Department of State

Washington, D.C. 20520

OCT 31 1997

Dear Mr. Speaker:

Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting herewith certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more.

The transaction described in the attached certification involves the export of the AGM-65A and AGM-65B TV, AGM-65G IR, and AGM-65H TV Upgrade Maverick Weapon System for integration into the Hellenic Air Force Command's F-16, A-7 and F-4 aircraft.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Barbara Larkin

Barbara Larkin
Assistant Secretary
Legislative Affairs

Enclosure:
Transmittal No. DTC-88-97

The Honorable
Newt Gingrich,
Speaker of the House of Representatives.

United States Department of State

Washington, D.C. 20520

NOV 7 1997

Dear Mr. Speaker:

Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting herewith notification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000.00 or more.

The transaction described in the attached certification involves the export to the Japan Defense Agency of knock-down kits for the Multiple Launch Rocket System.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, although unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Barbara Larkin
Assistant Secretary
Legislative Affairs

Enclosure:
Transmittal DTC-98-97

The Honorable
Newt Gingrich,
Speaker of the House of Representatives.

United States Department of State

Washington, D.C. 20520

NOV 6 97

Dear Mr. Speaker:

Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting herewith certification of a proposed Technical Assistance Agreement with Germany and Sweden.

The transaction described in the attached certification involves development of a demonstration aircraft for proof of concept of tailless flight and extremely short takeoff and landing (ESTOL) technologies.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Barbara Larkin

Barbara Larkin
Assistant Secretary
Legislative Affairs

Enclosure:
Transmittal No. DTC-112-97

The Honorable
Newt Gingrich,
Speaker of the House of Representatives.

United States Department of State

Washington, D.C. 20520

NOV 6

Dear Mr. Speaker:

Pursuant to sections 36(c) of the Arms Export Control Act, I am transmitting herewith notification of a proposed license for the export of major defense equipment sold under a contract in the amount of $14,000,000 or more.

The transaction described in the attached certification involves the export to Singapore of ten (10) Boeing CH-47SD helicopters, spare parts, ground support equipment, flight simulator, and technical data for the Ministry of Defense.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Barbara Larkin

Barbara Larkin
Assistant Secretary
Legislative Affairs

Enclosure:
Transmittal No. DTC-113-97

The Honorable
Newt Gingrich, Speaker,
House of Representatives.

United States Department of State

Washington, D.C. 20520

OCT 31 1997

Dear Mr. Speaker:

Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting herewith certification of a proposed export of defense articles or defense services sold under a contract in the amount of $50,000,000 or more.

The transaction described in the attached certification involves the provision to the United Kingdom of technical data support, specifications and instructions for the Electro-Optical Surveillance and Detection System (EOSDS) of the Nimrod 2000 program.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Barbara Larkin

Barbara Larkin
Assistant Secretary
Legislative Affairs

Enclosure:
Transmittal No. DTC-126-97

The Honorable
Newt Gingrich,
Speaker of the House of Representatives.

United States Department of State

Washington, D.C. 20520

OCT 31 1997

Dear Mr. Speaker:

Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting herewith certification of a proposed export of defense articles or defense services sold under a contract in the amount of $50,000,000 or more.

The transaction described in the attached certification involves the provision to the United Kingdom of technical data support, specifications and instructions for the Electro-Optical Surveillance and Detection System (EOSDS) of the Nimrod 2000 program.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Barbara Larkin
Assistant Secretary
Legislative Affairs

Enclosure:
Transmittal No. DTC-127-97

The Honorable
Newt Gingrich,
Speaker of the House of Representatives.

[FR Doc. 98–2767 Filed 2–4–98; 8:45 am]
BILLING CODE 4710–25–C

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Announcement of Changes 6, 7, and 8 of the Standard Clauses

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of availability.

SUMMARY: The Federal Aviation Administration (FAA) announces the availability of Changes 6, 7 and 8 of the standard clauses used in FAA procurement contracts and Screening Information Requests (SIR), as well as the latest versions of the real property and utility clauses.

ADDRESSES: The complete text of Changes 6, 7 and 8 of the standard clauses and the latest versions of the real property and utility clauses are available on the Internet at http://fast.faa.gov/. Use of the Internet World Wide Web Site is strongly encouraged for access to copies of the current clauses. If Internet service is not available, requests for copies of these documents may be made to the following address: FAA Acquisition Reform, ASU–100, Rm. 435, 800 Independence Avenue, SW, Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: David Lankford, Procurement Management Branch, Federal Aviation Administration, Rm. 435, 800 Independence Avenue, SW, Washington DC 20591, (202) 267–8407.

SUPPLEMENTARY INFORMATION: On October 31, 1995, Congress passed an Act Making Appropriations for the Department of Transportation and Related Agencies, for the Fiscal Year Ending September 30, 1996, and for Other Purposes (The 1996 DOT Appropriations Act). On November 15, 1995, the President signed this bill into law. In Section 348 of this law, Congress directed the Administrator of the FAA to develop and implement a new acquisition management system that addresses the unique needs of the agency. The new FAA Acquisition Management System went into effect on April 1, 1996.

[See Notice of availability at 61 FR 15155 (April 4, 1996)].

The Air Traffic Management System Performance Improvement Act of 1996, title II of the Federal Aviation Reauthorization Act of 1996, Public Law 104–264, October 9, 1996, expanded the procurement reforms previously authorized by the 1996 DOT Appropriations Act. Amendment 01 implements title II and makes other necessary changes to, and clarifications of, the FAA Acquisition Management System.

Issued in Washington, DC, on January 30, 1998.

Gilbert B. Devey, Jr.,

Director of Acquisitions, ASU–1.

[FR Doc. 98–2835 Filed 2–4–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Suffolk County, New York

AGENCY: Federal Highway Administration (FHWA), USDOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Suffolk County, New York.

FOR FURTHER INFORMATION CONTACT: Craig Siracusa, P.E., Regional Director, New York State Department of Transportation, 250 Veterans Memorial Highway, Hauppauge, New York, 11788, Telephone: (516) 952–6632

or

Harold J. Brown, Division Administrator, Federal Highway Administration, New York Division, Leo W. O'Brien Federal Building, 9th Floor, Clinton Avenue and North Pearl Street, Albany, New York, 12207, Telephone: (518) 431–4127.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the New York State Department of Transportation (NYSDOT) will prepare an environmental impact statement (EIS) on a proposal to improve NY Route 25 in Suffolk County, New York. The proposed improvement would involve the reconstruction and widening of about 2.5 miles of the existing route and crossroad approaches in the Town of Smithtown and the Village of the Branch between NY Route 111 and NY Route 347. Improvements to this corridor are considered necessary to provide for the existing and projected traffic demand and to address existing pavement and safety deficiencies.

Alternatives under consideration include: (1) Taking no action; (2) widening the existing mainline to provide: (a) Four lanes consisting of two eastbound travel lanes, one westbound travel lane, and one continuous center left turn lane between NY 111 and Terry Road and (b) three lanes consisting of one eastbound travel lane, one westbound travel lane, and one continuous center left turn lane between Terry Road and NY 347; (3) widening the existing two and three lane highway to a five lane section with no shoulders; (4) widening the existing two and three lane highway to a five lane section with shoulders. Incorporated into and studied with the various build alternatives will be design variations of grade, alignment, shoulder widths, and intersection configurations.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies, and to provide organizations and citizens who have previously expressed interest in this proposal. A public hearing will be held. Public notice will be given of the time and place of the hearing. The draft EIS will be available for public and agency review and comment. No formal NEPA scoping meeting is planned at this time.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the NYSDOT or FHWA at the addresses provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

Authority: 23 U.S.C. 315, 49 CFR 1.48.

Issued on: January 26, 1998.

Robert Arnold,

District Engineer, Federal Highway Administration, Albany, New York.

[FR Doc. 98–2844 Filed 2–4–98; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33545]

Turners Island, LLC—Acquisition and Operation Exemption—Portland Terminal Co.

Turners Island, LLC (TI), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire from Portland Terminal Company (PT) and to operate approximately 1.09 miles of rail line designated as Yard 3 Track extending between Engineering Station 82 + 03 and Engineering Station 23 + 97, in South Portland, Cumberland County,

ME.[1] In addition, TI will also acquire incidental trackage rights over PT's rail line between Engineering Station 82 + 03, where it intersects with the line being acquired, and Engineering Station 148 + 72 on Yard 3 Track, in South Portland, a distance of approximately 1.27 miles.

The transaction is expected to be consummated after the January 29, 1998 effective date of the exemption.

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33545, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Peter A. Greene, Esq., Thompson Hine & Flory LLP, 1920 N Street, NW., Washington, DC 20036.

Decided: January 28, 1998.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 98–2727 Filed 2–4–98; 8:45 am]

BILLING CODE 4915–00–P

[1] PT received Board authorization to abandon this line through a notice of exemption in *Portland Terminal Company—Abandonment Exemption—in Cumberland County, ME,* STB Docket No. AB–268 (Sub–No. 15X) (STB served Aug. 28, 1997).

UNITED STATES INFORMATION AGENCY

Request for Proposals

PROGRAM TITLE: Creative Arts Exchange Program.

SUMMARY: The Office of Citizen Exchanges within the United States Information Agency's Bureau of Educational and Cultural Affairs announces an open competition for an assistance award. Public and private non-profit organizations that demonstrate disciplinary expertise in the arts and humanities and meet the provisions described in IRS regulation 26 CFR 1.501(c)(3) may apply to develop international projects for visual and/or performing artists, educators and arts administrators. These projects will consist of residencies and programs in which selected participants from the United States and other countries work, learn or create together. An overarching goal of this program is to foster on-going sustainable linkages and partnerships between arts organizations or institutions in the U.S. and other countries. Participant exchanges and residencies offer benefits to artists and arts administrators as well as their sponsoring organizations. Particular emphasis will be placed on projects that closely relate art and culture to furthering public understanding and awareness of global issues and social concerns and/or projects that utilize the arts to promote solutions to societal problems. Interested applicants are invited to request and read the complete Solicitation Package before submitting their proposals. Proposed projects must be eligible in terms of countries/localities and disciplines as described in the section entitled ''Eligibility'' below.

Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is ''to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * * ; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world.''

Programs and projects must conform with Agency requirements and guidelines outlined in the Solicitation Package. The package consists of a Federal Register Request For Proposals (RFP); a statement outlining the Project Objectives, Goals and Implementation (POGI); and Proposal Submission Instructions (PSI). USIA projects and programs are subject to the availability of funds.

ANNOUNCEMENT TITLE AND NUMBER: All communications with USIA concerning this RFP should refer to the announcement's title and reference number *E/P–98–29.*

DEADLINE FOR PROPOSALS: All copies must be received at the U.S. Information Agency by 5 p.m. Washington, D.C. time on Thursday, April 2, 1998. Faxed documents will not be accepted at any time. Documents postmarked by the due date but received at a later date will not be accepted. Approximate program dates: Project timetables should assume a funding date no earlier than July 15, 1998.

FOR FURTHER INFORMATION CONTACT: Program Officer Jill Johansen in the Cultural Programs Section, Office of Citizen Exchanges, E/PY, Room 568, U.S. Information Agency, 301 4th Street, S.W., Washington, D.C. 20547, telephone: (202) 205–2209, fax: (202) 619–5311, Internet: jjohanse@usia.gov to request a Solicitation Package containing more detailed award information. Please request required application forms, and standard guidelines for preparing proposals, including specific criteria for preparation of the proposal budget.

TO DOWNLOAD A SOLICITATION PACKAGE VIA INTERNET: The entire Solicitation Package may be downloaded from USIA's website at http://www.usia.gov/education/rfps. Please read all information before downloading.

TO RECEIVE A SOLICITATION PACKAGE VIA FAX ON DEMAND: The entire Solicitation Package may be received via the Bureau's ''Grants Information Fax on Demand System'', which is accessed by calling 202/401–7616. Please request a ''Catalog'' of available documents and order numbers when first entering the system.

Please specify USIA Program Officer Jill Johansen on all inquiries and correspondence. Interested applicants should read the complete **Federal Register** announcement before sending inquiries or submitting proposals. Once the RFP deadline has passed, Agency staff may not discuss this competition in any way with applicants until the Bureau proposal review process has been completed.

SUBMISSIONS: Applicants must follow all instructions given in the Solicitation Package. The original and three (3) copies of the full package plus (11) eleven additional copies of Tabs A–E of your proposal should be sent to: U.S. Information Agency, Ref.: *E/P–98–29,* Office of Grants Management, E/XE, Room 326, 301 4th Street, S.W., Washington, D.C. 20547.

Applicants must also submit the ''Executive Summary'' and ''Proposal Narrative'' sections of the proposal on a 3.5'' diskette, formatted for DOS. This material must be provided in ASCII text (DOS) format with a maximum line length of 65 characters. USIA will transmit these files electronically to USIS posts overseas for their review, with the goal of reducing the time it takes to get posts' comments for the Agency's grants review process.

DIVERSITY, FREEDOM AND DEMOCRACY GUIDELINES: Pursuant to the Bureau's authorizing legislation, programs must

maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. ''Diversity'' should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and physical challenges. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the 'Support for Diversity' section for specific suggestions on incorporating diversity into the total proposal. Public Law 104–319 provides that ''in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy'', USIA ''shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries.'' Proposals should account for advancement of this goal in their program contents, to the full extent deemed feasible.

SUPPLEMENTARY INFORMATION:

Overview

The Creative Arts Exchanges Program within the Office of Citizen Exchanges works with U.S. non-profit organizations to develop cooperative international group projects that provide opportunities for American and foreign participants to work together and increase their understanding of each other's cultural and artistic life and traditions. Proposed projects should include a substantive and integral role for USIA's colleagues stationed at United States Information Service [USIS] posts overseas. Our posts carry out activities that support USIA's mission to increase mutual understanding between the United States and other countries and to promote international cooperation in education and cultural fields. USIS post officers have access to and in-depth knowledge of the arts communities where they are stationed. Their active participation in creative arts exchange projects increases the success and viability of our programs.

We seek proposals from U.S. organizations that have disciplinary expertise in the arts and humanities as well as broad outreach and networking capabilities into American arts and cultural activities nationwide. International projects in the United States or overseas may involve arts administrators, playwrights, theater directors, arts managers, experts on copyright protection for artists, choreographers, film makers, cultural tourism specialists, visual artists, writers and poets. Arts administration programs can include topics such as fundraising, community outreach, volunterism, arts management, development and organizational structure. Cultural tourism projects can include topics such as the role of the arts in economic development, marketing, audience and program development, art preservation and cultural patrimony.

Visual and performing arts projects should demonstrate a relationship to societal and/or global concerns such as: conflict resolution, global cooperation, energy conservation and environmental management, the role of women in society, teaching tolerance and race relations. Proposals including performances and/or small exhibitions need to demonstrate that the performance or exhibition is integral to the creative process. Projects in which exhibitions and/or performances are the sole program activity will not be supported under this competition.

Organizations interested in museum/curatorial projects should contact the American Association of Museums [AAM] International Partnerships Among Museums [IPAM] Program at: 1575 Eye Street, NW., Suite 400, Washington, DC 20005; telephone [202] 289–1818; FAX: [202] 289–6578. We will not accept direct applications from museums for international projects.

Guidelines

Proposed projects should involve the following components:

1. An international exchange of professionals in the fields listed above;
2. The development of institutional linkages between American organizations and their counterparts in other countries;
3. Travel of participants to or from the United States, preferably in both directions;
4. Assurances of quality, fairness, balance and openness in the selection of project participants;
5. Residencies that provide substantive learning opportunities for participants.

Drafts of all printed materials developed for this program using USIA funds should be submitted to the Agency for review and approval. USIA must receive a royalty-free, non-exclusive and irrevocable right to reproduce, publish or otherwise use the work for Federal purposes, and to authorize others to do so. Funded projects must acknowledge USIA sponsorship in all printed project materials and official project documents.

Special Conditions and Exclusions

1. USIS posts should be given the option of nominating foreign program participants. Final participant selection decisions will be made by the grantee organization in consultation with USIS posts.
2. Proposals involving more than one country are preferred. However, single-country projects that have strong USIS post support and clearly demonstrate the potential for creating and strengthening linkages between foreign and U.S. institutions are also welcome. Organizations are strongly urged to consult posts prior to submission of any proposals, especially when considering single-country projects.
3. Proposals involving foreign organizations should identify them and clearly define their role in the project. Letters of commitment from these organizations should be included in the proposal package. Prospective applicants should consult with USIS posts regarding such organizations prior to submitting their proposals.
4. Proposals centering on films or videos must deal with the creative aspects of film or video making. Projects may include story development, other aspects of the creative process, or management issues like funding and distribution. They should not include installations, screenings, competitions, full scale film production or distribution, or any other type of project prohibited in this announcement.

The following types of projects are ineligible for support:

1. Projects consisting solely of vocational and technical training;
2. Scholarly programs, long-term academic study or training programs, and student and/or faculty exchanges (Organizations interested in programs of this nature should contact USIA's Office of Academic Programs—202–619–6409);
3. Projects that solely consist of speaking tours, conferences, research projects, research for project development purposes, festivals, publications and international arts competitions;
4. Youth or youth-related activities (participants under age 25) or projects for the exchange of amateurs or semi-professionals;
5. Study tours and observerships;
6. Projects in the fields of historical conservation and preservation;
7. Projects for Eastern European or NIS countries other than those specified under our geographic guidelines, which

are: Kyrgyzstan, Kazakhstan and Uzbekistan.

USIA provides support to Sister Cities International and Partners of the Americas. It has agreed to partially fund administrative expenses of these organizations' national offices, but will not fund projects arising from sister city and partner state relationships once they are established.

Geographic Guidelines

Proposals which address themselves to various geographic regions of the world, and allow across-the-board participation from all areas are preferred. In addition, preferred or eligible specific geographic areas are:

1. Africa: Proposals are especially encouraged for projects in Africa, specifically those dealing with indigenous arts, copyright protection for artists, arts management and efforts to develop long-term strategies for protecting the archaeological and ethnological cultural patrimony including, but not limited to, sustainable cultural tourism initiatives for economic development.

2. Northern Africa, Near/Middle East and South Asia [NEA]: Region. Proposals are also especially encouraged for the NEA Region. USIA's preference is for performing or visual arts projects in Morocco and/or Tunisia. These North African countries enjoy a long history of excellent relations with the U.S. as well as rich and diverse cultures. Projects which will demonstratively result in improved understanding of U.S. values and strengthening civil society in one or both of these countries will be given priority. Examples might include, but are not limited to, projects which promote the use of theater or music to increase environmental awareness or similar civic responsibilities. Applicants are strongly encouraged to contact USIA posts in Tunis and/or Rabat as they develop these proposals.

3. American Republics (South America, Central America and the Caribbean): Preference will be given to proposals that focus on the following topics listed in priority: arts administration; cultural patrimony; cultural tourism; and ethnic and indigenous arts.

4. Western Europe and Canada: Proposals focusing on Turkey will be given strong preference.

5. Eastern Europe and New Independent States: Proposals will only be accepted for projects focusing on arts management and designed to create institutional partnerships between U.S. arts organizations and arts organizations in Kyrgyzstan, Kazakhstan and Uzbekistan.

6. East Asia: Preference will be given to proposals that focus on intellectual property protection in emerging Asian democracies.

Visa/Insurance/Tax Requirements

Programs must comply with J–1 visa regulations. Please refer to program specific guidelines (POGI) in the Solicitation Package for further details. Administration of the program must be in compliance with reporting and withholding regulations for federal, state, and local taxes as applicable.

Proposed Budget

Detailed budgetary requirements and guidelines are included in the Solicitation Package. Organizations must submit a comprehensive line item budget based on the specific guidance in the Solicitation Package. The maximum amount for a grant reward under this competition is $75,000. However, Creative Arts Exchange grants awarded through open competitions are on average approximately $58,000 with many successful proposals coming in at well below this level. Grants awarded to eligible organizations with less than four years of experience in conducting international exchange programs will be limited to $60,000. Organizations submitting proposals with administrative budgets that are significantly less than the grant amount requested from USIA and cost-sharing that equals at least 33% of the entire project budget will be given preference.

Applicants must submit a comprehensive budget for the entire program. There must be a summary budget as well as a breakdown reflecting both the administrative budget and the program budget. For further clarification, applicants may provide separate sub-budgets for each program component, phase, location, or activity in order to facilitate USIA decisions on funding.

Please refer to the Solicitation Package for complete budget guidelines and formatting instructions.

Review Process

USIA will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. Eligible proposals will be forwarded to panels of USIA officers for advisory review. All eligible proposals will be reviewed by the program office, as well as the USIA Area Offices and the USIA posts overseas, where appropriate. Proposals may be reviewed by the Office of the General Counsel or by other Agency elements. Funding decisions are at the discretion of the USIA Associate Director for Educational and Cultural Affairs. Final technical authority for assistance awards (grants or cooperative agreements) resides with the USIA grants officer.

Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered and all carry equal weight in the proposal evaluation:

1. Quality of the Program Idea: Proposals should exhibit originality, substance, precision, and relevance to Agency mission.

2. Program Planning: Detailed agenda and relevant work plan should demonstrate substantive undertakings and logistical capacity. Agenda and plan should adhere to the program overview and guidelines described above.

3. Ability to Achieve Program Objectives: Objectives should be reasonable, feasible, and flexible. Proposals should clearly demonstrate how the institution will meet the program's objectives and plan.

4. Multiplier Effect/Impact: Proposed programs should strengthen long-term mutual understanding, including maximum sharing of information and establishment of long-term institutional and individual linkages.

5. Support of Diversity: Proposals should demonstrate substantive support of the Bureau's policy on diversity. Achievable and relevant features should be cited in both program administration (selection of participants, program venue and program evaluation) and program content (orientation and wrap-up sessions, program meetings, resource materials and follow-up activities).

6. Institutional Capacity: Proposed personnel and institutional resources should be adequate and appropriate to achieve the program or project's goals.

7. Institution's Record/Ability: Proposals should demonstrate an institutional record of successful exchange programs, including responsible fiscal management and full compliance with all reporting requirements for past Agency grants as determined by USIA's Office of Contracts. The Agency will consider the past performance of prior recipients and the demonstrated potential of new applicants.

8. Follow-up Activities: Proposals should provide a plan for continued follow-on activity (without USIA support) which ensures that USIA supported programs are not isolated events.

9. Project Evaluation: Proposals should include a plan to evaluate the activity's success, both as the activities

unfold and at the end of the program. A draft survey questionnaire or other technique plus description of a methodology to use to link outcomes to original project objectives is recommended. Successful applicants will be expected to submit intermediate reports after each project component is concluded or quarterly, whichever is less frequent.

10. Cost-Effectiveness: The overhead and administrative components of the proposal, including salaries and honoraria, should be kept as low as possible. All other items should be necessary and appropriate.

11. Cost-Sharing: Proposals should maximize cost-sharing through other private sector support as well as institutional direct funding contributions.

12. Value to U.S.-Partner Country Relations: Proposed projects should receive positive assessments by USIA's geographic area desk and overseas officers of program need, potential impact, and significance in the partner country(ies).

Notice

The terms and conditions published in this RFP are binding and may not be modified by any USIA representative. Explanatory information provided by the Agency that contradicts published language will not be binding. Issuance of the RFP does not constitute an award commitment on the part of the Government. USIA reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements.

Notification

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal USIA procedures. USIA should process grants for successful proposals by mid-summer.

Dated: January 26, 1998.

John P. Loiello,

Associate Director for Educational and Cultural Affairs.

[FR Doc. 98–2358 Filed 2–4–98; 8:45 am]

BILLING CODE 8230–01–M

UNITED STATES INFORMATION AGENCY

Summer Institute for Educators From South Africa and Namibia

ACTION: Notice—Request for Proposals.

SUMMARY: The Office of Academic Programs, Academic Exchanges Division, Africa Branch of the United States Information Agency's Bureau of Educational and Cultural Affairs announces an open competition for an assistance award. Accredited, post-secondary educational institutions meeting the provisions described in IRS regulation 26 CFR 1.501(c)(3)–1 may apply to develop a Summer Institute for Educators from South Africa and Namibia. The Summer Institute will provide a six-week academic training/development program for up to 28 educators implementing educational reform in South Africa and Namibia.

Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is ''to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world.'' The funding authority for the program cited above is provided through the Fulbright-Hays Act.

Programs and projects must conform with Agency requirements and guidelines outlined in the Solicitation Package. USIA projects and programs are subject to the availability of funds.

Announcement Title and Number: All communications with USIA concerning this announcement should refer to the above title and reference number E/AEA–98–01.

Deadline for Proposals: All copies must be received at the U.S. Information Agency by 5 p.m. Washington, DC time on Thursday, March 19, 1998. Faxed documents will not be accepted at any time. Documents postmarked by the due date but received at a later date will not be accepted. It is the responsibility of each applicant to ensure that proposals are received by the above deadline.

The Summer Institute for Educators should be programmed to encompass about 45 days and should begin on or about June 13, 1998. A variation in start date up to one week beyond June 13, 1998 will be considered if it is necessitated by the host institution's academic calendar. No funds may be expended until a grant agreement is signed with USIA's Office of Contracts.

FOR FURTHER INFORMATION CONTACT: The Office of Academic Programs, Academic Exchanges Division, Africa Branch (E/AEA), Ellen S. Berelson, Branch Chief, Room 232, U.S. Information Agency, 301 4th Street, SW., Washington, DC 20547, phone: 202–619–5376, fax: 202–619–6137; or e-mail: eberelso@usia.gov to request a Solicitation Package containing more detailed award criteria, required application forms, and standard guidelines for preparing proposals, including specific criteria for preparation of the proposal budget.

To download a Solicitation Package via Internet: The entire Solicitation Package may be downloaded from USIA's website at http://www.usia.gov/education/rfps. Please read the information provided before downloading.

To Receive a Solicitation Package by FAX: The entire Solicitation Package may be requested via the Bureau's Grants Information ''Fax on Demand'' System which is accessed by calling 202/401–7616. Please request a Catalog of available documents and order numbers when first entering the system.

Please specify USIA Branch Chief Ellen S. Berelson on all inquiries and correspondence. Interested applicants should read the complete **Federal Register** announcement before sending inquiries or submitting proposals. Once the RFP deadline has passed, Agency staff may not discuss this competition in any way with applicants until the Bureau proposal review process has been completed.

Submissions: Applicants must follow all instructions given in the Solicitation Package. The original and 10 copies of the application should be sent to: U.S. Information Agency, Ref.: E/AEA–98–01, Office of Grants Management, E/XE, Room 326, 301 4th Street, SW, Washington, DC 20547.

Applicants must also submit the ''Executive Summary'' and ''Proposal Narrative'' sections of the proposal on a 3.5'' diskette, formatted for DOS. This material must be provided in ASCII text (DOS) format with a maximum line length of 65 characters. USIA will transmit these files electronically to USIS posts overseas for their review, with the goal of reducing the time it takes to get posts' comments for the Agency's grants review process.

Diversity, Freedom and Democracy Guidelines. Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. ''Diversity'' should be interpreted in the broadest sense and encompass differences

including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and physical challenges. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the ''Support for Diversity'' section for specific suggestions on incorporation diversity into the total proposal.

Public Law 104–319 provides that ''in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy'', USIA ''shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries.'' Proposals should account for advancement of this goal in their program contents, to the full extent deemed feasible.

SUPPLEMENTARY INFORMATION:

Program Overview

The Bureau of Educational and Cultural Affairs of the United States Information Agency (USIA) solicits proposals for a Summer Institute for Educators from South Africa and Namibia (SETI). The 1998 Summer Institute will provide participants with intensive training in continuous assessment, outcomes-based education, and teaching in the large multi-level, multi-lingual, multi-ethnic classroom. These topics correspond to the actual teaching environment in South Africa and Namibia and to the educational reforms which are being implemented in both countries. Subject to availability of funds, one grant will be awarded to conduct the 1998 Institute.

USIA asks for detailed proposals from U.S. institutions of higher education which have an acknowledged reputation in the field of education, training teachers of English-as-a-second language, special expertise in handling cross-cultural programs, and experience with educational systems in South Africa and Namibia. Note: Applicant organizations should demonstrate a proven record (at least four years) of experience in international exchange.

The program will also provide a structured exposure to U.S. culture and the diversity of America. The program should maintain a relative balance among discussion sessions, lectures, workshops, and practical experience. Lengthy lectures should be kept at a minimum. Participants should be given ample opportunity to work together and learn from each other as well as from their American instructors.

Few participants will have visited the United States previously. In view of this, an initial orientation to the university community and a brief introduction to U.S. society and education should be considered an integral part of the Institute and should be held on the first two to three days of the program.

Guidelines

The proposal should be designed to support the following specific activities:

(a) A five-week academic program comprising courses on outcomes-based education (OBE), continuous assessment/performance assessment, teaching in large multi-level, multi-lingual, multi-ethnic classroom environments, introduction to the Internet and WWW resources for educators, and leadership training to enable participants to conduct workshops upon return to their countries. Training should meet the special needs of participants from South Africa and Namibia. Detailed academic objectives are set forth in the Solicitation Package.

(b) Cultural activities facilitating interaction among the African participants, American students, faculty, and administrators and the local community to promote mutual understanding between the people of the United States and the people of South Africa and Namibia, planned within the five-week academic program.

(c) A one-week, escorted, cultural and educational tour of Washington, DC, complementing and reinforcing the academic material. The visit will be planned, arranged and conducted by the Program Director and principal Institute staff.

Participants: Participants to be selected by USIA, will be teacher trainers and trainers of trainers. The participants will be teachers of English as well as other subjects. They will be professionally employed as subject advisors, curriculum developers, and learning facilitators and coordinators from provincial departments of education, the national department of education, colleges of education and/or universities. Minimum qualification for all participants will be a three-year teacher training diploma with preference given to candidates with university degrees. Recruitment will concentrate on persons who are actively involved in implementing continuous assessment and outcomes-based education and in developing new curricula which are both relevant and suitable. Depending upon availability of funds, approximately 28 participants from South Africa and Namibia will participate in the Institute. Participants will enter the United States on J-visas, using IAP–66 forms issued by USIA offices in the home country.

Orientation: The host institution should plan to conduct either a pre-program needs assessment if time allows, or a needs assessment upon the arrival of the participants. The Institute Director should be prepared to adjust program emphasis as necessary to respond to participants' concerns.

A pre-departure orientation will be held in South Africa for all participants. The Institute host institution will be expected to provide general orientation materials for this meeting. This material might include a tentative program outline with suggested goals and objectives, relevant background information about the U.S. institutions and individuals involved in the project, and information about the local housing, climate, and available services.

Program Administration

All Summer Institute programming and administrative logistics, management of the academic program and the educational tour, and on-site arrangements will be the responsibility of the Institute grantee.

The host institution is responsible for arrangements for lodging, food, maintenance and local travel for participants while at the host institution and in Washington. The host institution should strive to balance cost effectiveness in accommodations and meal plans with flexibility for differing diets and personal habits among the participants. Single rooms or housing in residential suites which offer privacy while at the Institute are preferable.

USIA will arrange participants' international travel. USIA will provide the host institution with participants' curricula vitae and travel itineraries and will be available to offer guidance throughout the Institute. The participants will arrive directly at the Institute site from their home countries. It is expected that the Institute program staff will make arrangements to have participants met upon arrival at the airport nearest the host campus. Departures will be from Washington DC. Participants will be given international tickets which will include the leg from the host institution to Washington DC. The institute staff will have to plan for ground transportation to and from Washington area airports.

Proposals should describe the available health care system and the plan to provide health care access to Institute participants. USIA will provide limited health insurance coverage to all participants. The host institution will be

responsible for enrolling the participants in the insurance program with materials supplied by USIA.

Proposed Budget

Applicants must submit a comprehensive line-item budget for the entire program. There must be a summary budget as well as a break-down reflecting both the administrative budget and the program budget. For better understanding or further clarification, applicants may provide separate sub-budgets for each program component, phase, location, or activity in order to facilitate USIA decisions on funding. The cost to USIA for the Summer Institute for English Language Educators from South Africa and Namibia should not exceed $145,000. Grants awarded to eligible organizations with less than four years of experience in conducting international exchange programs will be limited to $60,000.

Allowable costs for the program include the following:

(1) Instructional costs (for example: instructors' salaries, honoraria for outside speakers, educational course materials);

(2) Lodging, meals, and incidentals for participants;

(3) Expenses associated with cultural activities planned for the group of participants (for example: tickets, transportation);

(4) Administrative costs as necessary. Proposals should maximize cost-sharing through private sector support as well as institutional direct funding contributions.

Please refer to the Solicitation Package for complete budget guidelines and formatting instructions.

Review Process

USIA will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. Eligible proposals will be forwarded to panels of USIA officers for advisory review. All eligible proposals will be reviewed by the program office, as well as the USIA Office of African Affairs and USIA posts overseas, where appropriate. Proposals may be reviewed by the Office of the General Counsel or by other Agency elements. Funding decisions are at the discretion of the USIA Associate Director for Educational and Cultural Affairs. Final technical authority for assistance awards (grants or cooperative agreements) resides with the USIA grants officer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered and all carry equal weight in the proposal evaluation:

1. Quality of the Program Idea:

Proposal should exhibit quality, rigor, and appropriateness of proposed syllabus to the academic objectives of the Institute. Proposal should demonstrate effective use of community and regional resources to enhance the cultural and educational experiences of participants.

2. Program Planning

Relevant work plan and detailed calendar should demonstrate substantive undertakings and logistical capacity. Plan and calendar should adhere to the program overview and guidelines as described above.

3. Institutional Capacity

Proposed personnel and institutional resources should be adequate and appropriate to achieve a substantive academic program and effective cross-cultural communication with African participants. Proposal should show evidence of strong on-site administrative capabilities with specific discussion of how logistical arrangements will be undertaken.

4. Multiplier Effect/Impact

Proposed program should contribute to long-term, mutual understanding and sharing of information about Africa among Americans, as well as to the understanding and knowledge of the U.S. among the African participants.

5. Support of Diversity

Proposals should demonstrate the recipient's commitment to promoting the awareness and understanding of diversity. Program administrators should strive for diversity among Institute staff, university students, and the host community who interact with participants.

6. Ability to Achieve Program Objectives

Teaching objectives should be reasonable, feasible, and flexible. Proposals should clearly demonstrate how the institution will meet the program's objectives and plan.

7. Institution's Record/Ability

Proposals should demonstrate an institutional record of successful exchange programs, including responsible fiscal management and full compliance with all reporting requirements for past Agency grants as determined by USIA's Office of Contracts. The Agency will consider the past performance of prior recipients and the demonstrated potential of new applicants.

8. Follow-on Activities

Proposals should provide a plan for continued follow-on activity (without USIA support) which ensures that USIA supported programs are not isolated events.

9. Project Evaluation

Proposals should include a plan to evaluate the Summer Institute's success, both as the activities unfold and at the end of the program.

10. Cost-effectiveness

The overhead and administrative components of the proposal, including salaries and honoraria, should be kept as low as possible. All other items should be necessary and appropriate.

11. Cost-sharing

Proposals should maximize cost-sharing through other private sector support as well as institutional direct funding contributions.

Notice

The terms and conditions published in this RFP are binding and may not be modified by any USIA representative. Explanatory information provided by the Agency that contradicts published language will not be binding. Issuance of the RFP does not constitute an award commitment on the part of the Government. The Agency reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements.

Notification

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal USIA procedures.

Dated: January 30, 1998.

Robert L. Earle,

Deputy Associate Director for Educational and Cultural Affairs.

[FR Doc. 98–2815 Filed 2–4–98; 8:45 am]

BILLING CODE 8230–01–M

Corrections

Federal Register

Vol. 63, No. 24

Thursday, February 5, 1998

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 95-AWA-1]

RIN 2120-AA66

Modification of the Houston Class B Airspace Area, TX

Correction

In rule document 98–1624, beginning on page 4162, in the issue of Wednesday, January 28, 1998, make the following correction:

§ 71.1 [Corrected]

On page 4165, in the first column, in § 71.1, under **ASW TX B Houston, TX [Revised]**, in the seventh line, ''38'' should read ''36''.

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 210

RIN 1510–AA39

Federal Government Participation in the Automated Clearing House

Correction

In proposed rule document 98–2042 beginning on page 5426 in the issue of Monday, February 2, 1998, make the following correction:

On page 5431, in the first column, after the first paragraph, remove ''DESSICATEDEIONLOUS''.

BILLING CODE 1505-01-D

federal register

Thursday
February 5, 1998

Part II

Department of Commerce

National Oceanic and Atmospheric Administration

50 CFR Part 622

Gulf of Mexico Fishery Management Council; Public Hearings; Proposed Rule

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[I.D. 013098C]

RIN 0648–AK31

Gulf of Mexico Fishery Management Council; Public Hearings

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

ACTION: Notice of public hearings; request for comments.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will convene public hearings on Draft Amendment 9 to the Fishery Management Plan for Coastal Migratory Pelagics Resources of the Gulf of Mexico (Draft Mackerel Amendment 9) and its draft environmental assessment (EA) and on Draft Amendment 16 to the Fishery Management Plan for Reef Fish Resources of the Gulf of Mexico (Draft Reef Fish Amendment 16) and its draft EA. Some of the hearings in the Gulf region will be joint hearings to receive comments on both Draft Mackerel Amendment 9 and Draft Reef Fish Amendment 16. In addition, one hearing in Key West, Florida, will be a joint hearing of the Gulf and South Atlantic Fishery Management Council on Draft Mackerel Amendment 9.

DATES: Written comments on Draft Reef Fish Amendment 16 and on Draft Mackerel Amendment 9 will be accepted by the Gulf Council until March 5, 1998. The public hearings will be held in February. See **SUPPLEMENTARY INFORMATION** for specific dates and times of the public hearings.

ADDRESSES: Written comments should be sent to, and copies of the draft amendment are available from, the Gulf Council. See **SUPPLEMENTARY INFORMATION** for locations of the hearings.

Council address: Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301, North, Suite 1000, Tampa, FL 33619.

FOR FURTHER INFORMATION CONTACT: Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council; telephone: (813) 228–2815.

SUPPLEMENTARY INFORMATION: The Council will hold public hearings on Draft Reef Fish Amendment 16. The draft amendment contains alternatives that may: (1) Shorten the phase-out of the use of fish traps to 2 years after implementation of this amendment; (2) restrict the commercial harvest of reef fish by boats and vessels tending spiny lobster and stone crab traps; (3) require a remote vessel monitoring system for fish trap vessels; (4) establish additional reporting requirements for fish trap vessels; (5) establish minimum and maximum size limits for banded rudderfish and lesser amberjack; (6) prohibit the sale of minor amberjack species that are smaller than the commercial size limit for greater amberjack, currently 36 inches (91 cm) fork length; (7) establish a five-fish bag limit for the recreational fishery for lesser amberjack and banded rudderfish; (8) remove from the FMP or reclassify sand perch, dwarf sand perch, queen triggerfish, and hogfish; (9) establish minimum size limits of 20 inches (51 cm) for scamp and yellowmouth grouper; 16 inches (41 cm) for mutton snapper; and 12 inches (30 cm) for blackfin snapper, cubera snapper, dog snapper, mahogany snapper, schoolmaster, silk snapper, mutton snapper, queen snapper, scamp, yellowmouth grouper, gray triggerfish, and hogfish to be more consistent with size regulations in State waters of Florida; (10) include the five-fish red snapper bag limit as part of the 10–snapper aggregate snapper limit; (11) establish a five-fish bag limit for hogfish; (12) allow two fish per vessel of cubera snapper over 30 inches (76 cm) total length in addition to the 10–snapper aggregate limit; and (13) establish a one-fish bag limit and commercial quotas for speckled hind and Warsaw grouper, or a prohibition on harvest of these species, in response to those species having been added to the candidate list of species for possible listing as threatened or endangered under the Endangered Species Act.

A total of 12 public hearings, including 3 joint public hearings on both amendments, will be held to obtain public comments on this plan amendment. The public comment period for this amendment ends on March 5, 1998.

Draft Mackerel Amendment 9 includes proposals for Federal rules for king and Spanish mackerel fisheries applicable only to the Gulf Council's area of jurisdiction that may: (1) Change the fishing year for Gulf group king mackerel, currently July 1; (2) prohibit the sale of mackerel caught under the recreational allocation; (3) reallocate total allowable catch (TAC) for the commercial fishery for Gulf group king mackerel in the Eastern Zone (Florida east coast and Florida west coast) to 45 percent for the east coast and 55 percent for the west coast, currently a 50/50 split; (4) reallocate TAC for Gulf group king mackerel between the recreational and commercial sectors to 70 percent recreational and 30 percent commercial, currently 68 percent and 32 percent, respectively; (5) establish two subdivisions of TAC for the commercial, hook-and-line allocation of Gulf group king mackerel by area for the Florida west coast and base allocations on historical catches from the 1992–93 fishing year through the 1996–97 fishing year, excepting the 1994–95 fishing year; (6) subdivide TAC for Gulf group king mackerel in the Western Zone (Alabama through Texas) by area, season, or a combination of area and season; (7) establish trip limits for vessels fishing Gulf group king mackerel in the Western Zone; (8) restrict the use of net gear to harvest Gulf group king mackerel off the Florida west coast, including a phase-out, a moratorium on additional net endorsements with requirements for continuing existing net endorsements, restrictions on the transferability of net endorsements, and restriction of the use of nets to primarily the waters off Monroe and Collier Counties; (9) increase the minimum size limit for Gulf group king mackerel to 24 or 26 inches (61 or 66 cm) fork length, currently 20 inches (51 cm) fork length; (10) re-establish an annual allocation or a TAC percentage of Gulf group Spanish mackerel for the purse seine fishery with consideration of trip limits and area restrictions; (11) modify regulations on retention and sale of cut-off (damaged) legal-sized king and Spanish mackerel within established trip limits.

Public hearings will be held from 7:00 p.m. to 10:00 p.m. at all of the following locations, except Gulf Shores, AL, where the hearing for Draft Mackerel Amendment 9 will be from 4:00 p.m. to 6:00 p.m., and the hearing on Draft Reef Fish Amendment 16 will be from 7:00 p.m. to 10:00 p.m.

1. Monday, February 9, 1998—Holiday Inn Beachside, 3841 North Roosevelt Boulevard, Key West, FL 33040 - Draft Reef Fish Amendment 16.

2. Tuesday, February 10, 1998—Hampton Inn, 13000 North Cleveland, North Fort Myers, FL 33903 - Draft Reef Fish Amendment 16.

3. Wednesday, February 11, 1998—Radisson Bay Harbor Inn, 7700 Courtney Campbell Causeway, Tampa, FL 33607 - Draft Reef Fish Amendment 16.

4. Thursday, February 12, 1998—Plantation Inn and Golf Resort, 9301 West Fort Island Trail, Crystal River, FL 34429 - Draft Reef Fish Amendment 16.

5. Tuesday, February 17, 1998—Holiday Inn Beachside, 3841 North Roosevelt Boulevard, Key West, FL

33040 - Draft Mackerel Amendment 9 - Draft Mackerel Amendment 9 (Joint meeting with South Atlantic Fishery Management Council).

6. Wednesday, February 18, 1998—Hampton Inn, 13000 North Cleveland, North Fort Myers, FL 33903 - Draft Mackerel Amendment 9.

7. Thursday, February 19, 1998—Radisson Bay Harbor Inn, 7700 Courtney Campbell Causeway, Tampa, FL 33607 - Draft Mackerel Amendment 9.

8. Thursday, February 19, 1998—Old Post Office Building, 102 East Green Street, Perry, FL 32347 - Draft Reef Fish Amendment 16.

9. Monday, February 23, 1998—National Marine Fisheries Service Panama City Laboratory, 3500 Delwood Beach Road, Panama City, FL 32408 - Joint Draft Reef Fish Amendment 16 and Draft Mackerel Amendment 9.

10. Tuesday, February 24, 1998—Holiday Inn on the Beach, 265 East Beach Boulevard, Gulf Shores, AL 36547 - Joint Draft Reef Fish Amendment 16 and Draft Mackerel Amendment 9.

11. Wednesday, February 25, 1998—J. L. Scott Marine Education Center & Aquarium, 115 East Beach Boulevard, U.S. Highway 90, Biloxi, MS 39530 - Joint Draft Reef Fish Amendment 16 and Draft Mackerel Amendment 9.

12. Wednesday, February 25, 1998—Texas A&M Auditorium, 200 Seawolf Parkway, Galveston, TX 77553 - Joint Draft Reef Fish Amendment 16 and Draft Mackerel Amendment 9.

13. Thursday, February 26, 1988—Larose Regional Park, 2001 East 5th Street, Larose, LA 70373 - Joint Draft Reef Fish Amendment 16 and Draft Mackerel Amendment 9.

14. Thursday, February 26, 1998—Port Arkansas Library, 700 West Avenue A, Port Arkansas, TX 78373 - Joint Draft Reef Fish Amendment 16 and Draft Mackerel Amendment 9.

15. Thursday, February 26, 1998—West Palm Beach Fishing Club, 201 5th Street, West Palm Beach, FL 33401 - Draft Mackerel Amendment 9.

Copies of the amendments can be obtained by calling 813–228–2815.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Anne Alford at the Council (see **ADDRESSES**) by February 6, 1998.

Dated: February 2, 1998.

Gary C. Matlock,

Office Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 98–3067 Filed 2-3-98; 2:27 pm]

BILLING CODE 3510–22–F

federal register

Thursday
February 5, 1998

Part III

Environmental Protection Agency

40 CFR Part 82

Protection of Stratospheric Ozone: Control of Methyl Bromide Emissions Through Use of Tarps; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[FRL–5962–1]

RIN 2060–AH26

Protection of Stratospheric Ozone: Control of Methyl Bromide Emissions Through Use of Tarps

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final determination.

SUMMARY: Through this action EPA is making a determination that requiring the use of gas impermeable tarps to control emissions of the pesticide methyl bromide is not appropriate under section 608(a)(2) of the Clean Air Act (CAA or Act) at this time. This determination is based on a review of currently available studies and field data on the use of tarps, particularly gas impermeable tarps, to reduce methyl bromide emissions from soil fumigation in the period prior to January 1, 2001. Methyl bromide depletes stratospheric ozone, which protects the earth from harmful ultraviolet radiation, and existing CAA regulations call for U.S. production and importation of methyl bromide to cease by January of 2001. EPA is also announcing the availability of its report, ''Feasibility of Using Gas Impermeable Tarps to Reduce Methyl Bromide Emissions associated with Soil Fumigation in the United States,'' dated January 26, 1998, which provides the analysis upon which EPA's determination is based.

EFFECTIVE DATE: This determination will become effective on April 6, 1998 unless adverse comment is received by March 9, 1998. If adverse comment is timely received on this determination, EPA will withdraw the determination and timely notice to that effect will be published in the **Federal Register**. All comments will then be addressed in a subsequent final determination based on the proposed determination contained in the Proposed Rules section of this **Federal Register** that is identical to this direct final determination. If no adverse comment is timely received on this direct final determination, then the direct final determination will become effective 60 days from today's **Federal Register** document and no further action will be taken on the parallel proposal.

ADDRESSES: Comments on this determination should be sent to Docket No. A–98–07, U.S. Environmental Protection Agency, OAR Docket and Information Center, Room M–1500, Mail Code 6102, 401 M Street, S.W., Washington, D.C. 20460. The docket may be inspected from 8:00 a.m. until 5:30 p.m., weekdays. The docket phone number is (202) 260–7548, and the fax number is (202) 260–4400. A reasonable fee may be charged for copying docket materials. A second copy of any comments should also be sent to Carol Weisner, U.S. Environmental Protection Agency, Stratospheric Protection Division, 401 M Street, SW, Mail Code 6205J, Washington, DC 20460, if by mail, or at 501 3rd Street, N.W., Washington, DC 20001, if comments are sent by courier delivery.

FOR FURTHER INFORMATION CONTACT: Carol Weisner at (202) 564–9193 or fax (202) 565–2096, U.S. Environmental Protection Agency, Stratospheric Protection Division, Mail Code 6205J, 401 M Street, SW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION: The contents of this direct final determination are listed in the following outline:

I. Background
II. Basis for Today's Action
III. Administrative Requirements
IV. Judicial Review

I. Background

Section 608 of the CAA (42 U.S.C. 7671g) sets forth certain requirements for a national recycling and emission reduction program aimed at Class I and Class II ozone-depleting substances and their substitutes. Class I and Class II ozone-depleting substances are designated as such under section 602 of the Act, in accordance with the Montreal Protocol on Substances that Deplete the Ozone Layer, an international agreement to which the United States is a party.

Methyl bromide is a pesticide which is a Class I ozone-depleting substance under the Montreal Protocol and under the Act. Pursuant to section 602 of the Act and implementing regulations, production of methyl bromide in the U.S. and importation of methyl bromide into the U.S. will cease effective January 1, 2001.

Section 608(a)(1) of the Act provides for a national recycling and emission reduction program with respect to the use and disposal of Class I substances used as refrigerants. Section 608(a)(2) provides for such a program with respect to Class I and Class II substances not covered by section 608(a)(1).

The Sierra Club Legal Defense Fund (recently renamed the Earthjustice Legal Defense Fund) sued EPA in the U.S. District Court for the District of Columbia on March 31, 1995, claiming that EPA had not fulfilled its obligation under section 608(a)(2) of the CAA. In a consent decree (notice of which was published on September 17, 1996, in the **Federal Register** at 61 FR 48950) EPA agreed to, among other things, issue either: (1) A proposed rule requiring control of the emission of the pesticide methyl bromide through the use of tarps, or (2) a direct final determination that no such rule is either necessary or appropriate under section 608(a)(2) of the Act.

EPA's agreement to make a choice between these two options was based on EPA's commitment to complete a study regarding the control of methyl bromide emissions through the use of tarps, particularly gas impermeable tarps (''virtually impermeable film'' or ''VIF'' tarps). The study was to assess the economic feasibility of, and explore potential options for, increased use of these tarps. This study, ''Feasibility of Using Gas Impermeable Tarps to Reduce Methyl Bromide Emissions Associated with Soil Fumigation in the United States,'' which EPA issued on January 26, 1998, is available in the Docket for this action. Based on the analysis in this study, EPA has determined that requiring the use of VIF tarps is not appropriate under section 608(a)(2) of the Act at this time.

II. Basis for Today's Action

Section 608(a) of the Act provides that regulations under this subsection shall include requirements that reduce the emission of the relevant ozone-depleting substances ''to the lowest achievable level.'' Although the phrase ''lowest achievable level'' is not defined in the Act, EPA's interpretation of this phrase is based on the language of the Act and the legislative history of section 608.

In applying this standard to regulations issued under section 608(a), EPA takes both technological and economic factors into account, considering in an appropriate manner the technology available, costs, benefits, and leadtimes involved. See 58 FR 28660, at 28667–28669, for a discussion of this standard as applied in the final rule issued May 14, 1993, establishing a recycling program for ozone-depleting refrigerants recovered during the servicing and disposal of air-conditioning and refrigeration equipment.

EPA has considered the factors mentioned above to determine whether control of methyl bromide emissions through the use of VIF tarps would represent the ''lowest achievable level.'' EPA has concluded, based on review of currently available literature and field data, that requiring the use of VIF tarps is not appropriate at this time.

Following is a discussion of the consideration of these factors.

Methyl bromide is injected into soil to control soil-borne plant pathogens, nematodes, weeds and insects. Existing EPA and state regulations generally require that when methyl bromide is used as a soil fumigant, tarps must be used to cover the fumigated area for 1 to 5 days, depending on the location and application circumstances. The tarps temporarily hold the pesticide in the soil to insure its effectiveness and reduce the exposure of farm workers and nearby residents to the toxic gas.

EPA and state regulations currently allow the use of tarps that are permeable to methyl bromide (polyethylene or ''PE'' tarps). These tarps can reduce the rate of methyl bromide emissions to the ambient air during the fumigation on a temporary basis. However, a significant portion of the methyl bromide injected into the soil eventually leaks through these permeable tarps and an additional portion is emitted to the atmosphere when the tarps are removed following fumigation.

VIF tarps are currently being manufactured and used in Europe. Use of these tarps in Europe has shown that the high application rates typical in Europe can be reduced. However, this experience is not directly relevant to the U.S. situation where use rates are much lower than what is common in Europe. Nevertheless, some have suggested that use of VIF tarps in the U.S. might achieve significant reductions in methyl bromide emissions from soil fumigation. EPA consequently focused its study on the feasibility of using VIF tarps in the near term to significantly reduce methyl bromide emissions to the air from soil fumigation.

In the U.S., VIF tarps have been tested in a variety of laboratory and university field studies for their potential to reduce emissions of methyl bromide. EPA's review of these studies leads to the conclusion that significant emission reductions are possible with the use of VIF tarps. However, significant reductions can be realized only if use of VIF tarps is accompanied by changes in methyl bromide application and tarping practices and the appropriate soil conditions exist.

Emissions of methyl bromide from the soil following fumigation are a function of several factors, including the amount of methyl bromide applied, the depth of its injection into the soil, and the type, moisture level, organic content, microbial composition, and temperature of the soil being fumigated. Use of tarps can reduce emissions, but the extent of any reductions depends on the type of tarp used, tarp handling practices (including the amount of time the tarp is left on the field or ''tarp cover time''), and the other factors listed above.

Available studies indicate that VIF tarps could result in significant reductions in methyl bromide emissions if certain conditions are met: (1) Tarp cover time is lengthened from 1 to 5 days to probably 10 or more days; (2) the depth of injection of methyl bromide into the soil is deeper than typically used with permeable tarps; and (3) soil conditions which promote degradation of the methyl bromide in the soil (thereby reducing emissions to the atmosphere) are either present or are optimized by application of soil amendments, irrigation, or fertilization. However, the effects of meeting such conditions on pest control effectiveness and crop production in the U.S. have not yet been adequately tested. VIF tarps and the changes that would be needed in application procedures and soil preparation have not been studied in U.S. commercial settings, where pest control efficacy and crop production over a typical growing season could be fully evaluated. Without such data, EPA does not have sufficient information to evaluate the efficacy and cost-effectiveness of requiring the use of VIF tarps (along with necessary changes to application procedures and soil preparation) to reduce emissions of methyl bromide, while still ensuring adequate pest control and crop production.

While VIF tarps are used in Europe, the European experience so far does not provide the information needed to make decisions about requiring VIF tarps in the U.S. European studies involving VIF tarping have primarily focused on the extent to which impermeable tarping can make it possible to lower application rates of methyl bromide while still achieving adequate crop protection. Those studies indicate that methyl bromide application rates used in Europe can be reduced by at least 50 percent. The direct relevance of those studies to the U.S. situation is limited, however, since application rates in the U.S. are typically far lower than the rates used in Europe. Also, the European studies have not focused on the emissions implications of VIF tarping, providing little data of the sort provided by U.S. studies. Beyond that, differences between European and U.S. crop, soil and climatic conditions, as well as agricultural production and tarping practices, make direct comparisons inappropriate. While the European experience suggests that VIF tarping has the potential to lower methyl bromide emissions, it does not establish how VIF tarping can be used in the U.S. in a manner that will ensure consistently lower methyl bromide emissions, adequate crop protection, and farmworker safety.

In addition, available information indicates that requiring U.S. farmers to use VIF tarps in the near term (until methyl bromide's 2001 phase-out in the U.S.) would be impracticable. As mentioned previously, VIF tarps are currently made only in Europe. Current European production capacity is not great enough to supply the U.S. market if VIF tarps were to be required here. In addition, as currently made, VIF tarps come in sizes that are incompatible with U.S. application equipment. It is questionable whether tarp producers here or abroad would make the investment necessary to ensure adequate availability of VIF tarping to U.S. farmers in the few years left before methyl bromide's scheduled phase-out in the U.S.

Beyond questions of availability, there are also questions of efficacy if U.S. farmers were required to use VIF tarps before answers can be obtained about the need to couple use of VIF tarps with changes in application procedures and soil preparation. For example, due to the smaller size and different tensile strength and flexibility of currently available VIF tarps as compared to permeable tarps, tractors and other application equipment would need to be adapted. Application procedures for using VIF tarps in flat-field or ''broadcast'' fumigation, where the tarps must be glued together to cover an entire field for the specified tarping duration, have not been tested in a commercial setting, although there is anecdotal information that the glue used to seal permeable tarps may not be sufficient to seal VIF tarps for an extended tarping duration. Weather conditions may affect the tarp integrity for the extended tarping duration required for successful emission reductions with VIF tarps, but this has not been tested in a commercial setting.

The other conditions for successful use of VIF tarps in achieving significant emission reductions are subject to similar uncertainties because of the differences in soil conditions, weather conditions, and crop production requirements in the many areas of the U.S. where methyl bromide is used to fumigate the soil. For example, the depth of injection of methyl bromide into the soil depends on a number of factors specific to the crop which is to be planted. Shallow applications (such as 20 centimeters or 8 inches) are appropriate for soil to be planted with shallow root crops such as vegetables, but deeper applications (such as 46

centimeters or 18 inches) are appropriate for soil to be planted with fruit tree crops which have deeper roots. Most of the studies of emission reductions using VIF tarps indicate the need for very deep injection applications (such as 61 centimeters or 24 inches) but do not assess the resulting effect of such deeper injections on pest control efficacy and crop production.

Similarly, the ability to use application procedures such as irrigation, fertilization, or the addition of soil amendments, which help promote degradation of methyl bromide in the soil (thereby reducing emissions to the atmosphere) is affected by soil conditions, weather conditions, and crop production requirements. Tests of VIF tarps in reducing emissions of methyl bromide have not assessed the use of these tarps in commercial settings where one or more of these application procedures were used.

Without additional research testing the use of VIF tarps in commercial growing conditions, it is not possible to adequately evaluate the level of emission reductions that may be possible with the use of VIF tarps, and the effect that related changes may have on pest control and crop production. Without such information, EPA also cannot adequately evaluate the economic feasibility of using VIF tarps and making necessary changes to application practices and soil preparation.

Additionally, there are other potential environmental and health impacts of using VIF tarps about which little information is currently available. For example, VIF tarps may be more expensive to landfill than PE tarps since they are heavier, and may be more difficult to recycle because of the combination of plastics used to make them. Another concern is that bromine levels may increase in fumigated soil to the extent methyl bromide is allowed to degrade in the soil rather than volatilize to the atmosphere. Finally, VIF tarps without longer tarp cover times could result in higher levels of methyl bromide exposures for farm workers and nearby residents when the tarps are removed. These issues add to the uncertainty of whether requiring VIF tarps in the near term would be, on balance, beneficial to the environment and society in general.

Given the environmental, technological, economic and other uncertainties associated with use of VIF tarps, EPA believes it is not appropriate at this time to require under section 608(a)(2) the use of these tarps as a means of reducing emissions of methyl bromide to the ''lowest achievable level.'' Further information and discussion relevant to EPA's decision not to require VIF tarping at this time may be found in the study mentioned above. This study is available in the docket for this determination, as described above.

EPA encourages the use of tarps to control methyl bromide emissions where such use is appropriate given soil and weather conditions and crop production requirements. Options to promote emission reductions, including ways to optimize the use of tarps to achieve emission reductions, are discussed more fully in the study, especially in section 4.3, on ''Additional Emissions Factors.'' Nothing in this determination should affect any existing legal requirements to use tarps such as federal pesticide labeling requirements or California use permit conditions.

III. Administrative Requirements

A. Executive Order 12866

Executive Order 12866 (58 FR 51735, October 4, 1993) provides for interagency review of ''significant regulatory actions.'' It has been determined by the Office of Management and Budget (OMB) and EPA that this action, which is a determination that requiring the control of methyl bromide emissions through the use of tarps is not appropriate, is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to OMB review under the Executive Order.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601–602, requires that Federal agencies, when developing regulations, consider the potential impact of those regulations on small entities. Because this action is a determination that requiring the control of methyl bromide emissions through the use of tarps is not appropriate, the Regulatory Flexibility Act does not apply. By its nature, this action will not have an adverse effect on the regulated community, including small entities.

IV. Judicial Review

Because this direct final determination is of nationwide scope and effect, under section 307(b)(1) of the Act, judicial review of this action is available only by the filing of a petition for review in the United States Court of Appeals for the District of Columbia Circuit within sixty days of publication of this action in the **Federal Register**.

List of Subjects in 40 CFR Part 82

Environmental protection, Administrative practice and procedure, Air pollution control, Chemicals, Reporting and recordkeeping requirements, Stratospheric ozone layer.

Dated: January 30, 1998.

Carol M. Browner,

Administrator.

[FR Doc. 98–2875 Filed 2–4–98; 8:45 am]

BILLING CODE 6560–50–P

federal register

Thursday
February 5, 1998

Part IV

Department of Labor

Mine Safety and Health Administration

Federal Mine Safety and Health Act of 1977: Sections 104 (d) and (e) ''Significant and Substantial'' Phrase, Interpretative Bulletin; Notice

DEPARTMENT OF LABOR

Mine Safety and Health Administration

The ''Significant and Substantial'' Phrase in Sections 104(d) and (e) of the Federal Mine Safety and Health Act of 1977; Interpretative Bulletin

The Interpretative Bulletin published below sets forth a statement of the Secretary of Labor's Mine Safety and Health Administration's (MSHA's) interpretation of the ''significant and substantial'' phrase contained in sections 104(d) and (e) of the Federal Mine Safety and Health Act of 1977 (Mine Act), an interpretation which will be implemented in accordance with a Program Information Bulletin attached as an appendix to this Interpretative Bulletin. This Interpretative Bulletin provides an explanation of the Secretary's interpretation of the statutory phrase and the rationale supporting this interpretation.

The Secretary of Labor is responsible for interpreting and applying the statutes which she administers. Interpretation and application of statutory terms to particular factual circumstances is an ongoing process. Publication of all interpretative positions taken by the Secretary is impossible, but from time to time the Secretary has found it useful as a means of notifying the public in general, and interested segments of the public in particular, to publish Interpretative Bulletins or other material setting forth the Secretary's general interpretative positions on particular provisions of certain statutes.

Purpose of This Interpretative Bulletin

The purpose of this Interpretative Bulletin is to provide notice of the Secretary's interpretation of the statutory phrase ''significant and substantial'' appearing in sections 104(d) and (e) of the Mine Act, an interpretation which the Secretary will utilize in enforcing the Mine Act. The Secretary's interpretation of the ''significant and substantial'' phrase is that a violation must be found to be ''significant and substantial'' as long as it is shown to present a hazard that is more than remote or speculative.

This Bulletin is also meant to provide notice that the Secretary intends to challenge the interpretation of the ''significant and substantial'' phrase set forth and applied in the existing case law of the Federal Mine Safety and Health Review Commission (Commission).

Under the Mine Act, which is enforced by MSHA, the importance of the ''significant and substantial'' phrase is that if a violation of a mandatory health or safety standard is found to be ''significant and substantial,'' the operator may be subject to increasingly severe enforcement actions under sections 104(d) and (e) and to higher civil penalties under section 110.

The Commission's existing interpretation of the ''significant and substantial'' phrase is that a violation may be found to be ''significant and substantial'' only if it is shown to present a hazard that is reasonably likely to result in a reasonably serious illness or injury. The Secretary intends to challenge the Commission's interpretation of the ''significant and substantial'' phrase because, after conducting a careful review of the Commission's decisions and the language, history, and purpose of the phrase, the Secretary has concluded that the Commission's interpretation is legally incorrect.

The Commission's Interpretation of the ''Significant and Substantial'' Phrase, and the Secretary's Disagreement With the Commission's Interpretation

The Commission has determined that a violation is ''significant and substantial'' if, ''based upon the particular facts surrounding the violation, there exists a reasonable likelihood that the hazard contributed to will result in an injury or illness of a reasonably serious nature.'' *Cement Division, National Gypsum Co.,* 3 FMSHRC 822, 825 (1981). *Accord Mathies Coal Co.,* 6 FMSHRC 1, 3–4 (1984). The Secretary has concluded that the Commission's interpretation of the ''significant and substantial'' phrase as requiring the Secretary to establish a ''reasonable likelihood that the hazard contributed to will result in an injury of a reasonably serious nature'' is inconsistent with the plain language, legislative history, and remedial purpose of the Mine Act, and that the Commission's application of its interpretation of the phrase over the years has increasingly impeded MSHA's attempts to improve health and safety by imposing meaningful sanctions for violations of the Mine Act's mandatory standards.

For example, the Commission has in recent years vacated the MSHA inspectors' significant and substantial determinations in a series of cases involving permissibility violations [1] or violations posing ignition or explosion hazards. *Texasgulf, Inc.,* 10 FMSHRC 498, 501–503 (1988); *Eastern Associated Coal Co.,* 13 FMSHRC 178, 184 (1991); *Energy West Mining Co.,* 15 FMSHRC 1836, 1838–1839 (1993). *Texasgulf* involved three violations of 30 CFR 57.21078, the permissibility standard for metal/nonmetal mines. The hazard presented was that the violation would result in a methane ignition or explosion. In analyzing whether there was a reasonable likelihood that the hazard would result in an ignition or explosion, the Commission stated that there must be a ''confluence of factors,'' including a sufficient amount of methane in the atmosphere surrounding the impermissible gaps and ignition sources, to support a significant and substantial determination. *Texasgulf,* 10 FMSHRC at 501. At the time of the citation, methane measured .009%, methane had never been detected in the explosive range at the trona mine involved, and the geologic formations at the mine were not such as to result in high methane liberation. On that basis, the Commission concluded that there was not a reasonable likelihood that the hazard would result in a mine ignition or explosion. *Texasgulf,* 10 FMSHRC at 502–503. The Commission made this determination despite evidence that the mine liberated 50,000 to 90,000 cfm methane daily and that sudden methane liberations could occur.

The Commission subsequently applied its ''confluence of factors'' formulation of the ''reasonable likelihood'' element of its significant and substantial interpretation in two other cases involving ignition and explosion hazards. *Eastern, supra; Energy West, supra.* An analysis of these cases establishes that the Commission's interpretation of the ''significant and substantial'' phrase and its application of the ''reasonable likelihood'' ''confluence of factors'' analysis requires the Secretary not only to establish the presence of combustible material or methane in large or dangerous amounts and the presence of potential ignition sources, but also to establish that the ignition sources are sparking either because of normal use, as with a continuous miner, or because of a malfunction. For this reason, the Commission's interpretation and application of the ''significant and substantial'' phrase to ignition and explosion hazards effectively equates a ''significant and substantial'' violation with an imminent danger. In other

[1] Methane is a flammable gas found in underground mining. In order to prevent methane from coming into contact with an ignition source, electrical equipment used in many underground mines must be permissible. Permissible means that the equipment has been approved by MSHA for use underground. Permissible equipment is designed so that the air in the mine atmosphere cannot enter the electrical components of the equipment.

words, the Commission may, under its interpretation, require close to a certainty that the hazard contributed to will result in an injury-causing event to support a significant and substantial finding for violations presenting ignition or explosion hazards. All of the foregoing cases involved ignition or explosion hazards, which are among the most serious hazards encountered in mining.

More generally, the Commission's narrow interpretation of the ''significant and substantial'' phrase as applying only to violations which present hazards that are virtually certain to result in injury-producing events impedes MSHA's ability to improve health and safety conditions in mines in a broad variety of other cases because it effectively removes the ''significant and substantial'' tool from MSHA's enforcement arsenal. A review of the decisions issued by the Commission and its administrative law judges indicates a decline in the percentage of significant and substantial citations affirmed by the Commission in the years since the Commission's 1988 decision in *Texasgulf.* Similarly, a disturbing number of decisions issued by Commission administrative law judges in recent years demonstrated a restrictive and unrealistic application of the ''significant and substantial'' phrase. In addition, the Commission's narrow interpretation has resulted in recent years in an increasing amount of unnecessary and unnecessarily complicated litigation. *See United States Steel Mining Co.,* 18 FMSHRC 862, 868–867 (1996) (Commissioner Marks, dissenting) (calling for reexamination of the Commission's interpretation and concluding, *inter alia,* that that interpretation has ''only serve[d] to fuel a constant stream of unnecessary litigation that results in a diminished level of Congressionally mandated protection to our nation's miners and puts an unacceptable financial strain on operators and the government''). Most importantly, as discussed below, the Commission's interpretation of the ''significant and substantial'' phrase is inconsistent both with the plain language of the Mine Act and with its legislative history.

The Plain Language of the ''Significant and Substantial'' Phrase

The Federal Mine Safety and Health Act of 1977 (Mine Act) amended and replaced the Federal Coal Mine Health and Safety Act of 1969 (Coal Act). The ''significant and substantial'' phrase which appeared in section 104(c) of the Coal Act (the unwarrantable failure provision) was carried over unchanged to section 104(d) of the Mine Act. The phrase appears in section 104(d) of the Mine Act as follows: ''such violation is of such nature as could significantly and substantially contribute to the cause and effect of a coal or other mine safety or health hazard * * *.'' In addition to appearing in the unwarrantable failure provision of section 104(d), the ''significant and substantial'' phrase appears in the pattern of violations provision of section 104(e) of the Mine Act, which was a new provision.

In each section, the ''significant and substantial'' phrase describes the type of violation which, when cited under the respective sections in conjunction with other factors, results in the possible imposition of further sanctions on the offending operator.[2] The words ''significantly and substantially'' are adverbs modifying the verb ''contribute.'' Therefore, it is the contribution of the violation to the cause and effect of a hazard which must be ''significant and substantial.''

Although the term ''hazard'' is not defined in the Mine Act, it is a common word which has been defined as ''* * * a thing, or condition that *might* operate against success or safety; a *possible* source of peril, danger, duress or difficulty * * *.'' *Webster's Third New International Dictionary* (1966 ed.) (emphasis added). The language of section 104(d) does not indicate that any particular degree of hazard is required to support a significant and substantial finding.

Similarly, nothing in section 104(d) requires that the violation actually contribute to a hazard. On the contrary, the ''significant and substantial'' phrase begins with ''*could* significantly and substantially contribute to the cause and effect of * * * (a) mine * * * hazard'' (in sections 104(d)(1) and 104(e)(2)) and ''*could have* significantly and substantially contributed to the cause and effect of* * * (a) mine * * * hazard'' (in section 104(e)(1)). Therefore, the statutory language precludes application of the ''significant and substantial'' phrase to those violations which present no hazard or present a hazard that is only remote or speculative in nature. Conversely, the statutory language mandates application of the ''significant and substantial'' phrase to violations which present hazards that have a realistic possibility of occurring.

In addition, the Secretary's interpretation of the ''significant and substantial'' provision of the Mine Act is consistent with the legislative history and with the enforcement scheme of the Mine Act.

The Legislative History of the ''Significant and Substantial'' Phrase

In enacting the Mine Act, Congress specifically addressed the meaning of the ''significant and substantial'' phrase as Congress understood and intended the phrase to be applied. In discussing the meaning of the ''significant and substantial'' phrase as it had been interpreted under section 104(c) of the Coal Act, the Senate Committee report on what became section 104(d) of the Mine Act harshly criticized the holding of the Commission's predecessor, the Interior Board of Mine Operations Appeals, in *Eastern Associated Coal Corp.,* 3 IBMA 331 (1974), as an ''unnecessarily and improperly strict view of the 'gravity test' * * * (which) has required that the violation be so serious as to very closely approach a situation of imminent danger.'' S. Rep. No. 95–181, 95th Cong., 1st Sess. at 31, *reprinted in* Senate Subcommittee on Labor, Committee on Human Resources, 95th Cong., 2d Sess., *Legislative History of the Federal Mine Safety and Health Act of 1977* at 614 (1978). The Committee then noted with approval its understanding of the IBMA's subsequent *Alabama By-Products* decision, stating that in *Alabama By-Products Corp.,* 7 IBMA 85 (1976), the Board had ''ruled that only notices for purely technical violations could not be issued under section 104(c)(1) (of the Coal Act).'' The Committee then stated:

> The Board's holding in *Alabama By-Products Corporation* is consistent with the committee's intention that the unwarrantable failure citation is appropriately used for all violations, whether or not they create a hazard which poses a danger to miners(,) so long as they are not purely technical in nature. The Committee assumes, however, that when ''technical'' violations do pose a health or safety danger to miners, and are the result of an ''unwarrantable failure'' the unwarrantable failure notice will be issued.

S. Rep. No. 95–181 at 31, *reprinted in Legislative History* at 632.[3] The Secretary's interpretation of the ''significant and substantial'' phrase is consistent with the explicit statements

[2] Under section 104(d), the other factors are that the conditions created by the alleged violation were caused by an unwarrantable failure of the operator to comply with mandatory health or safety standards. Under section 104(e), the other factor is a previously issued written notice from the Secretary to the operator alleging that a pattern of significant and substantial violations exists.

[3] The significant and substantial phrase appears in Section 104(d) of the Mine Act which also includes the unwarrantable failure provision. Thus, this provision is sometimes referred to as the unwarrantable failure citation.

in the legislative history addressing the phrase, and the Commission's is not.

The Purpose of the ''Significant and Substantial'' Phrase in Promoting Health and Safety

The Secretary's interpretation of the ''significant and substantial'' phrase is also consistent with the underlying purpose and the enforcement scheme of the Mine Act. Mining is one of the Nation's most hazardous occupations. The ''significant and substantial'' phrase reflects the fact that Congress was attempting to root out and prevent significant and substantial contributions, both actual and potential, to mine health and safety hazards. *See* sections 2(c) and (e) of the Mine Act. Congress' concern in preventing potential mine hazards, or at least eliminating them before they result in accident, injury, or illness, is the reason Congress established a low threshold for finding a violation to be significant and substantial. Applying the ''significant and substantial'' provision to all violations which present a hazard that has more than a speculative or remote chance of occurring is fully consistent with the Mine Act's enforcement scheme.

Moreover, in addition to attempting to prevent significant and substantial contributions to mine safety and health hazards, the ''significant and substantial'' provision also acts as a trigger for additional, stronger enforcement tools available to MSHA to address more serious operator conduct. For example, the unwarrantable failure provision in section 104(d) addresses violations resulting from an operator's indifference or other aggravated conduct in permitting a violation to occur or in refusing to correct a known violative condition, and provides for increasingly severe consequences for repeated unwarrantable violations, including a withdrawal order requiring all miners to be withdrawn from the area until the hazardous condition is corrected. The first citation issued to an operator under section 104(d)'s unwarrantable failure provision must allege that the violation is both significant and substantial and the result of the operator's unwarrantable failure to comply with the mandatory health or safety standard. Subsequent unwarrantable failure violations are not required to be significant and substantial. Thus, to trigger the unwarrantable failure provision, the initial violation must be significant and substantial.

In addition, the significant and substantial provision is important for section 104(e)'s pattern of violations notice, which is issued to an operator who establishes a pattern of recurrent significant and substantial violations, i.e., the habitual violator. The Secretary has promulgated regulations for the application of section 104(e)'s notice of pattern of violations at 30 C.F.R. part 104. Those regulations ensure that even with a broader interpretation of the significant and substantial provision, the pattern provision is remedial and not onerous. It is only if the extensive corrective efforts and procedures outlined in 30 C.F.R. part 104 are not successful or if the operator declines to institute such a program that the mine may actually receive a pattern notice. Even if those efforts are not successful, a pattern notice is not issued until after higher level review by the appropriate MSHA administrator. However, if the Secretary's attempts to assist the operator to correct the recurrent violations are unsuccessful, the pattern of violations notice permits the Secretary to order the withdrawal of miners until the hazardous condition is abated.

The Secretary acknowledges that she has refrained from challenging the Commission's interpretation of the ''significant and substantial'' phrase for a number of years. However, the Commission's increasingly restrictive application of that interpretation over the years has, as discussed above, led the Secretary to reevaluate the Commission's interpretation. After reevaluating the Commission's interpretation of the ''significant and substantial'' phrase, the Secretary has concluded that the Commission's interpretation is inconsistent both with the plain language of the Mine Act and its legislative history, and with the effective enforcement of the Act.

Dated: January 30, 1998.

J. Davitt McAteer,

Assistant Secretary for Mine Safety and Health.

U.S. Department of Labor

Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203–1984

NON-MANDATORY APPENDIX
ISSUE DATE: February 5, 1998
PROGRAM INFORMATION BULLETIN NO. P98–7

FROM:
MARVIN W. NICHOLS, Jr., Administrator for Coal Mine Safety and Health
EDWARD C. HUGLER, Acting Administrator for Metal and Nonmetal Mine Safety and Health

SUBJECT: Significant and Substantial

Scope

This program information bulletin is for all Mine Safety and Health Administration enforcement personnel, mine operators, and independent contractors.

Purpose

The purpose of this bulletin is to inform MSHA enforcement personnel, mine operators, and independent contractors of how MSHA intends to enforce and litigate its interpretation of the ''significant and substantial'' phrase which it set forth in the Interpretative Bulletin published along with this Program Information Bulletin in today's **Federal Register**.

Information

The Mine Safety and Health Administration's (MSHA's) enforcement personnel will continue to cite violations as ''significant and substantial'' in accordance with existing practices as outlined in the Agency's Program Policy Manual.

For all ''significant and substantial'' findings which are then litigated before an administrative law judge, the Solicitor's Office will assert that the violation is ''significant and substantial'' both under the interpretation of the ''significant and substantial'' phrase announced in the Secretary's Interpretative Bulletin and under Commission case law until there is a definitive judicial decision regarding the validity of the Secretary's interpretation.

In the interest of administrative and judicial economy, the Secretary will litigate a small group of cases until there is a definitive ruling on the validity of the Secretary's interpretation of the ''significant and substantial'' phrase.

Background

Along with this Program Information Bulletin, in today's **Federal Register**, the Secretary published an Interpretative Bulletin which set forth the Secretary's interpretation of the ''significant and substantial'' phrase in Sections 104(d) and 104(e) of the Mine Act. As the Secretary explained in the Interpretative Bulletin, after conducting a careful review of the language, history, and purpose of the ''significant and substantial'' phrase as well as a review of the Commission's ''significant and substantial'' decisions both prior to and after *Texasgulf, Inc.*, 10 FMSHRC 498 (1988), the Secretary has concluded that the Commission's existing interpretation of the ''significant and substantial'' phrase is incorrect.

Authority

30 U.S.C. 814(d) and 814(e).

Issuing Offices and Contact Persons

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Thursday
February 5, 1998

Part V

Environmental Protection Agency

Guidance and Information for States on Implementing the Capacity Development Provisions of the Safe Drinking Water Act; Notice

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5958–8]

Guidance and Information for States on Implementing the Capacity Development Provisions of the Safe Drinking Water Act

AGENCY: Environmental Protection Agency.

ACTION: Public review draft.

SUMMARY: The Environmental Protection Agency is publishing, for public comment, draft ''Guidance for States on Implementing the Capacity Development Provisions of the 1996 Amendments to the Safe Drinking Water Act.'' The Agency is also announcing the availability of the following related draft documents for public review and comment: Information for States on Implementing the Capacity Development Provisions of the Safe Drinking Water Act, and Information for the Public on Participating with States in Preparing Capacity Development Strategies.

DATES: Comments must be received by April 6, 1998.

ADDRESSES: Send comments to Peter E. Shanaghan, Small Systems Coordinator, Mail Code 4606, Environmental Protection Agency, 401 M Street S.W., Washington, D.C. 20460 or E-mail shanaghan.peter@epa.epamail.gov.

FOR FURTHER INFORMATION CONTACT: Peter E. Shanaghan, 202–260–5813 or shanaghan.peter@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: The 1996 Safe Drinking Water Act (SDWA) Amendments bring significant improvements to the national drinking water program. Capacity development is an important component of the Act's focus on preventing problems in drinking water. The capacity development provisions offer a framework within which States and water systems can work together to ensure that systems acquire and maintain the technical, financial, and managerial capacity needed to achieve the public health protection objectives of the SDWA.

The 1996 Amendments emphasize the technical, managerial, and financial capacity of water systems. By enhancing and ensuring the technical, financial, and managerial capacity of water systems, States will promote compliance with national primary drinking water regulations (NPDWRs) for the long term. To avoid a withholding in its Drinking Water State Revolving Fund (DWSRF) allotment, each State is required to obtain the legal authority or other means to ensure that new community water systems and new nontransient noncommunity water systems demonstrate adequate capacity, and to develop and implement a strategy to assist existing systems in acquiring and maintaining capacity.

The draft guidance published and the draft information documents being made available today are the result of a thorough stakeholder consultation process initiated by the U.S. Environmental Protection Agency (EPA) and its National Drinking Water Advisory Council (NDWAC). The NDWAC was established by the original Safe Drinking Water Act as a diverse group of stakeholders to advise the Agency on drinking water issues. In order to most effectively advise EPA regarding implementation of the capacity development provisions of the SDWA Amendments of 1996, NDWAC established a Small Systems Working Group. The Small Systems Working Group met on four occasions between February and July, 1997, each two days in length, with the purpose of developing consensus recommendations on how EPA should implement the capacity development provisions of the SDWA Amendments of 1996. The Small Systems Working Group consisted of 22 members representing small public water systems, environmental and public health advocacy groups, State drinking water programs, public utility commissions, and other interest groups. The Small Systems Working Group recommended to NDWAC, which in turn recommended to EPA, that the Agency publish a combination of guidance and information to facilitate the implementation of the capacity development provisions of the 1996 SDWA Amendments. The working group, through the NDWAC, made specific substantive recommendations regarding the content of the draft guidance being published today and information documents being made available today.

Guidance and Information Documents

The guidance document being published today is in large part based on recommendations by the Small Systems Working Group and NDWAC. The document is entitled Guidance for States on Implementing the Capacity Development Provisions of the 1996 Amendments to the Safe Drinking Water Act, and includes the following major sections:

- Guidance for States on Ensuring that All New Community Water Systems and New Nontransient Noncommunity Water Systems Demonstrate Technical, Managerial, and Financial Capacity
- Guidance for States on Minimum Requirements for State Capacity Development Strategies (to Avoid DWSRF Withholding)
- Guidance for States on Assessment of Capacity for the Purposes of Awarding Drinking Water State Revolving Fund (DWSRF) Assistance

The draft information documents being made available today are also based in large part on specific recommendations by the Small Systems Working Group and NDWAC. The first document, entitled Information for States on Implementing the Capacity Development Provisions of the Safe Drinking Water Act, includes the following chapters:

- Information for States on Ensuring that All New Community Water Systems and New Nontransient Noncommunity Water Systems Demonstrate Technical, Managerial, and Financial Capacity
- Information for States on Preparing State Capacity Development Strategies
- Information for States on Assessment of Capacity (For Purposes of Awarding DWSRF assistance)

A second draft document recommended by the Small Systems Working Group and NDWAC, entitled Information for the Public on Participating with States in Preparing Capacity Development Strategies, is also being made available today.

Specific Issues for Commentors to Consider

There are two issues on which the Agency wishes to specifically solicit public comment. The first pertains to the proposed guidance being published today. Does the proposed guidance strike an appropriate balance between respecting State flexibility and discretion in implementation of the capacity development provisions, while ensuring adequate national level program accountability for SDWA implementation?

The second issue pertains to the draft information document for which a notice of availability is being published today. Does the document contain sufficient substantive information, and is the information appropriately organized, to facilitate State implementation of the capacity development provisions?

Statutory Basis for the Guidance and Information Documents

The following provisions of the Safe Drinking Water Act as amended comprise the statutory requirements for capacity development and provide the basis for the subsequent guidance and accompanying information documents:

• Section 1420(a): State Authority for New Systems-A State shall receive only 80 percent of the allotment that the State is otherwise entitled to receive under section 1452 (relating to State loan funds) unless the State has obtained the legal authority or other means to ensure that all new community water systems and new nontransient, noncommunity water systems commencing operation after October 1, 1999, demonstrate technical, managerial, and financial capacity with respect to each national primary drinking water regulation in effect, or likely to be in effect, on the date of commencement of operations.

• Section 1420(c): Capacity Development Strategy—(1) In General-Beginning 4 years after the date of enactment of this section, a State shall receive only—(A) 90 percent in fiscal year 2001; (B) 85 percent in fiscal year 2002; and (C) 80 percent in each subsequent fiscal year, of the allotment that the State is otherwise entitled to receive under section 1452 (relating to State loan funds), unless the State is developing and implementing a strategy to assist public water systems in acquiring and maintaining technical, managerial, and financial capacity.

• Section 1452(a)(1)(G)(i): New System Capacity—Beginning in fiscal year 1999, the Administrator shall withhold 20 percent of each capitalization grant made pursuant to this section to a State unless the State has met the requirements of section 1420(a) (relating to capacity development) and shall withhold 10 percent for fiscal year 2001, 15 percent for fiscal year 2002, and 20 percent for fiscal year 2003 if the State has not complied with the provisions of section 1420(c) (relating to capacity development strategies). Not more than a total of 20 percent of the capitalization grants made to a State in any fiscal year may be withheld under the preceding provisions of this clause. All funds withheld by the Administrator pursuant to this clause shall be reallotted by the Administrator on the basis of the same ratio as is applicable to funds allotted under subparagraph (D). None of the funds reallotted by the Administrator pursuant to this paragraph shall be allotted to a State unless the State has met the requirements of section 1420 (relating to capacity development).

• Section 1452(g)(3): Guidance and Regulations—The Administrator shall publish guidance and promulgate regulations as may be necessary to carry out the provisions of this section, including—(A) provisions to ensure that each State commits and expends funds allotted to the State under this section as efficiently as possible in accordance with this title and applicable State laws; (B) guidance to prevent waste, fraud, and abuse; and (C) guidance to avoid the use of funds made available under this section to finance the expansion of any public water system in anticipation of future population growth. The guidance and regulations shall also ensure that the State and public water systems receiving assistance under this section, use accounting, audit, and fiscal procedures that conform to generally accepted accounting standards.

The Act also provides that the Environmental Protection Agency (EPA) will assist State capacity development efforts by providing information and guidance:

• Section 1420(d): Federal Assistance—(1) In General—The Administrator shall support the States in developing capacity development strategies. * * * (4) Guidance for New Systems—Not later than 2 years after the date of enactment of this section, the Administrator shall publish guidance developed in consultation with the States describing legal authorities and other means to ensure that all new community water systems and new nontransient, noncommunity water systems demonstrate technical, managerial, and financial capacity with respect to national primary drinking water regulations.

ACRONYMS

Acronym	Definition
CFR	Code of Federal Regulations.
CWS	Community Water System.
DWRSF	Drinking Water State Revolving Fund.
EPA	Environmental Protection Agency.
IUP	Intended Use Plan.
NDWAC	National Drinking Water Advisory Council.
NPDWR	National Primary Drinking Water Regulations.
NTNCWS or NTNC.	Nontransient, Noncommunity Water System.
PWS	Public Water System.
SDWA	Safe Drinking Water Act.
SDWIS	Safe Drinking Water Information System.
TNC or TNCWS.	Transient, Noncommunity Water System.

Contents

• I. Introduction to Technical, Managerial, and Financial Capacity of Water Systems
• II. Guidance for States on Ensuring that All New CWSs and New NTNCWSs Demonstrate Technical, Managerial, and Financial Capacity
• III. Guidance for States on Minimum Requirements for State Capacity Development Strategies (To Avoid DWSRF Withholding)
• IV. Guidance for States on Assessment of Capacity for Purposes of Awarding DWSRF Assistance

I. Introduction to Technical, Managerial, and Financial Capacity of Water Systems

The 1996 Safe Drinking Water Act (SDWA) Amendments bring significant improvements to the national drinking water program. Capacity development is an important component of the Act's focus on preventing problems in drinking water. The capacity development provisions offer a framework within which States and water systems can work together to ensure that systems acquire and maintain the technical, financial, and managerial capacity needed to achieve the public health protection objectives of the SDWA.

The 1996 Amendments emphasize the technical, managerial, and financial capacity of water systems. By enhancing and ensuring the technical, financial, and managerial capacity of water systems, States will promote compliance with national primary drinking water regulations (NPDWRs) for the long term. To avoid a withholding in its Drinking Water State Revolving Fund (DWSRF) allotment, each State is required to obtain the legal authority or other means to ensure that new community water systems and new nontransient noncommunity water systems demonstrate adequate capacity, and to develop and implement a strategy to assist existing systems in acquiring and maintaining capacity.

The capacity development provisions in the Act offer a simple, flexible framework within which States can organize their efforts to address the challenges facing small systems. Each state has extraordinary flexibility to implement a capacity development program that is uniquely tailored to its circumstances. The statute specifies that new systems must demonstrate technical, managerial, and financial capacity prior to commencing operation, and States must develop and implement strategies to assist public water systems in acquiring and maintaining technical, managerial, and financial capacity. The statute lists several specific issues which a State must consider, solicit public comment on, and include as appropriate in its capacity development strategy. The statute does *not* dictate which substantive components a State strategy must contain. Enhancing the technical, managerial, and financial

capacity of water systems offers great potential for correcting existing non-compliance and, more importantly, preventing future non-compliance with NPDWR's.

This section presents the background information necessary to understand the guidance documents that are provided in Sections II through IV. These draft guidance documents are designed to assist States in implementing the capacity development provisions of the Act.

Included in this introductory section are a discussion of the demographics of systems affected by the provisions, and working definitions of technical, managerial, and financial capacity that are used throughout the draft guidance and information documents.

1. System Demographics [1]

The capacity development provisions of the SDWA apply to several types of public water systems. Some provisions apply to all public water systems (PWSs), which include: (1) Community water systems (CWSs); (2) nontransient, noncommunity water systems (NTNCWSs); and (3) transient, noncommunity water systems (TNCWSs). Other provisions apply only to community water systems and nontransient, noncommunity water systems. It is important to note that the statute does not limit or focus the capacity development provisions based on system size. However, as the following discussion makes clear, the overwhelming majority of water systems are small. Thus, as a practical matter, small systems will be a significant focus of capacity development efforts due to the sheer number of such systems.

A public water system is a ''system for the provision to the public of water for human consumption through pipes or other constructed conveyances, if such system has at least fifteen service connections or regularly serves an average of at least twenty-five individuals'' (Section 1401(4)(A) SDWA as amended). This category includes community water systems; nontransient, noncommunity water systems; and transient, noncommunity water systems. There are approximately 172,000 public water systems nationwide.

A community water system is ''a public water system which serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.'' (40 CFR 141.2) There are approximately 55,000 community water systems serving over 246 million people. About 87 percent of CWSs are classified as ''very small'' (serving fewer than 500 persons) or ''small'' (serving from 501 to 3,300 persons). Although the small and very small systems comprise a significant majority of CWSs, they serve just over 10 percent of the population served by CWSs. Community water systems can be classified into two major ownership types—privately owned and publicly owned. Within the privately owned category, a substantial number of systems are ''ancillary systems,'' i.e., they provide water as an ancillary function of their principal business or enterprise. An example is mobile home parks (Figure 1). Like NTNCWSs, they provide water to their customers, but provision of water is not their principal business. The incidence of ancillary systems varies significantly by system size. In small CWSs serving between 25 and 100 persons, over half (53 percent) are ancillary systems. In larger CWSs serving more than 10,000 persons, only 0.1 percent are ancillary systems.

A nontransient, noncommunity water system is defined as ''a public water system that is not a community water system and that regularly serves at least 25 of the same persons over 6 months per year.'' (40 CFR 141.2) Examples of establishments which are nontransient, noncommunity water systems include schools, factories, office/industrial parks, and major shopping centers. Most are privately owned. The approximately 20,000 NTNCWSs across the nation serve approximately 6 million people. Over 96 percent of NTNCWSs use ground water as their primary source. They typically are small systems; 99 percent of NTNCWSs are classified as ''very small'' or ''small.''

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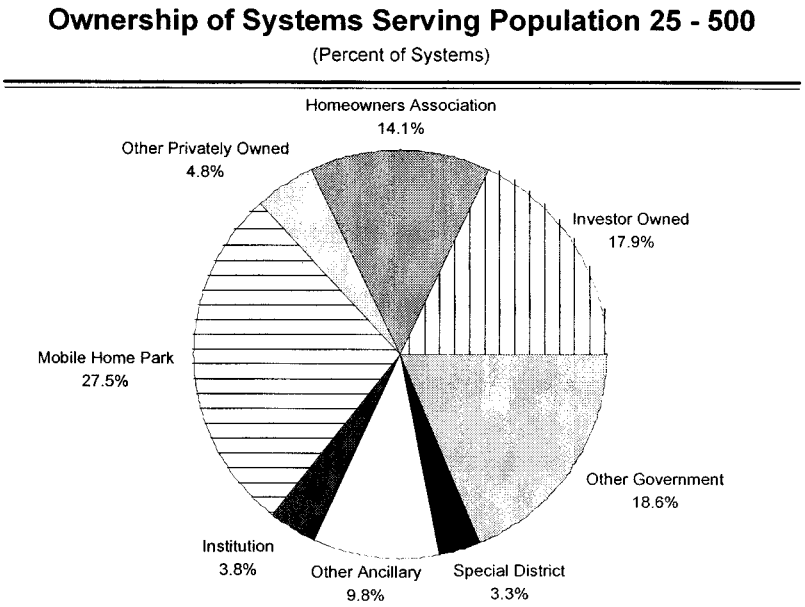
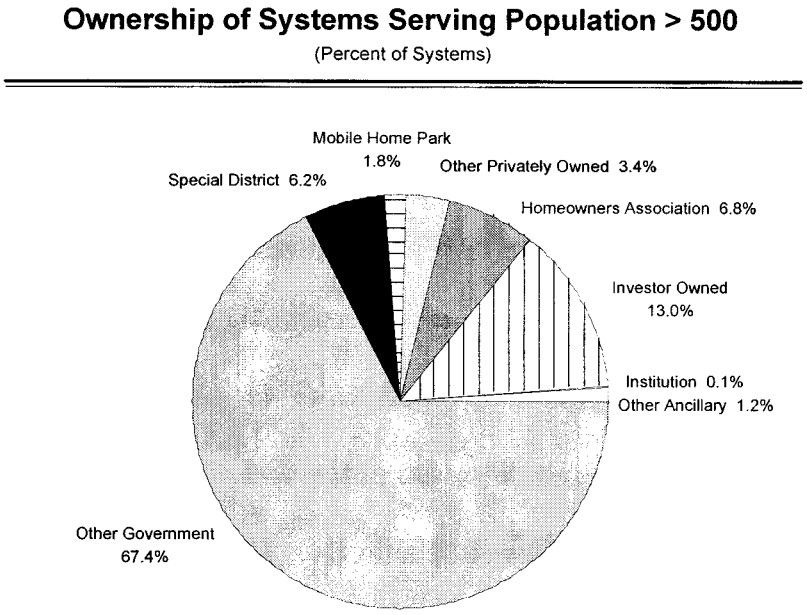
[1] Data Source: Safe Drinking Water Information System (SDWIS).

Figure 1 (Source: Community Water System Survey, EPA 815-R-97-001a, January, 1997)





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2. Defining Capacity

In the context of the 1996 Amendments to the Safe Drinking Water Act, water system capacity refers to the overall capability or wherewithal of a water system to consistently produce and deliver water meeting all NPDWRs. Capacity encompasses the technical, managerial, and financial capabilities of the water system to plan for, achieve, and maintain compliance with applicable drinking water standards given available water resources and the characteristics of the service population.

Technical, managerial, and financial capacity are three general, highly interrelated areas of overall water system capability:

- Technical capacity refers to the physical infrastructure of the water system, including but not limited to the adequacy of the source water, infrastructure (source, treatment, storage, and distribution), and the ability of system personnel to adequately operate and maintain the system and to otherwise implement technical knowledge.
- Managerial capacity refers to the management structure of the water system, including but not limited to ownership accountability, staffing and organization, and effective linkages to customers and regulatory agencies.
- Financial capacity refers to the financial resources of the water system, including but not limited to revenue sufficiency, credit worthiness, and fiscal controls.

3. Key Questions

Technical, managerial, and financial capacity are individual yet highly interrelated areas of a system's overall capability, as illustrated in Figure 2. A system cannot sustain acceptable performance without maintaining adequate capability in all three areas. Indicators of capacity within each area can be framed by key sets of issues and questions, including but not limited to the following:

Technical Capacity

- *Source water adequacy.* Does the system have access to a reliable and sufficient source of water? Is the source water of adequate quality? Is the source adequately protected?
- *Infrastructure adequacy.* Can the system provide water that meets SDWA standards? What is the condition of the system's infrastructure, including well(s) and/or source water intakes, treatment, storage, and distribution? What is the life expectancy of the system's infrastructure? Does the system have a capital improvement plan?

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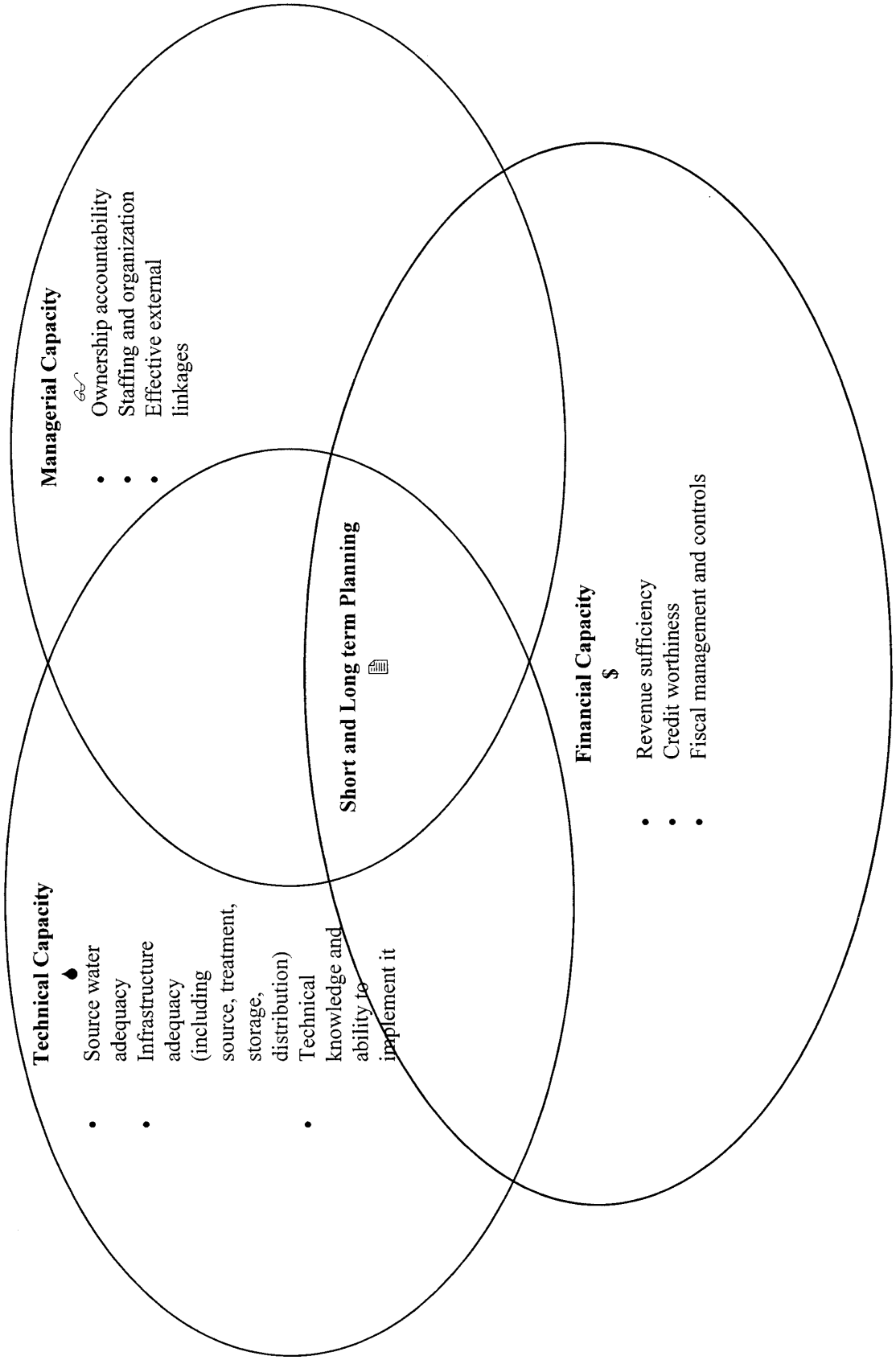

Figure 2
Technical, Managerial, and Financial Capacity

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• *Technical knowledge and implementation.* Does the system have a certified operator? Is the system operated with technical knowledge of applicable standards? Are personnel able to implement this technical knowledge effectively? Do the operators understand the technical and operational characteristics of the system? Does the system have an effective operation and maintenance program?

Managerial Capacity

• *Ownership accountability.* Are the system owner(s) clearly identified? Can they be held accountable for the system?

• *Staffing and organization.* Are the system operator(s) and manager(s) clearly identified? Is the system properly staffed and organized? Do personnel understand the management aspects of regulatory requirements and system operations? Do personnel have adequate expertise to manage water system operations? Do personnel have the necessary licenses and certifications?

• *Effective external linkages.* Does the system interact well with customers, regulators, and other entities? Is the system aware of available external resources, such as technical and financial assistance?

Financial Capacity

• *Revenue sufficiency.* Do revenues cover costs? Are rates and charges for water service adequate to cover the cost of service?

• *Credit worthiness.* Is the system financially healthy? Does it have access to financial capital through public or private sources?

• *Fiscal management and controls.* Are adequate books and records maintained? Are appropriate budgeting, accounting, and financial planning methods used? Does the system manage its revenues effectively?

Many aspects of water system operations involve more than one kind of capacity. A program of infrastructure replacement and improvement, for example, requires technical knowledge, management planning and oversight, and financial resources. In other words, a water system with adequate capacity draws on strengths in all three capacity areas—technical, managerial, and financial.

II. Guidance for States on Ensuring That All New CWSs and New NTNCWSs Demonstrate Technical, Managerial, and Financial Capacity

The Safe Drinking Water Act (SDWA) Amendments of 1996 (Pub.L. 104–182) authorize a Drinking Water State Revolving Fund (DWSRF) to help public water systems finance the infrastructure needed to achieve or maintain compliance with SDWA requirements and to achieve the public health protection objectives of the Act. Section 1452 authorizes the Administrator of the U.S. Environmental Protection Agency (EPA) to award capitalization grants to the States. Under section 1420(a) of the Act, the Administrator is directed to withhold a portion of a State's allotment under section 1452 unless the State ''has obtained the legal authority or other means to ensure that all new community water systems and new nontransient, noncommunity water systems commencing operation after October 1, 1999, demonstrate technical, managerial, and financial capacity with respect to each national primary drinking water regulation in effect, or likely to be in effect, on the date of commencement of operations.'' Section 1452(a)(1)(G)(i) discusses the process of withholding funds under the Act's provisions related to new system capacity.

Section 1420(d)(4) instructs the EPA Administrator to publish ''guidance developed in consultation with the States describing legal authorities and other means to ensure that all new community water systems and nontransient, noncommunity water systems demonstrate technical, managerial, and financial capacity with respect to national primary drinking water regulations.'' This guidance document fulfills this requirement.

This guidance document—developed in consultation with States and other stakeholders—provides the criteria that EPA will use in evaluating State implementation of the requirements of section 1420(a) of the Act. The criteria are (1) demonstration of statutory or regulatory basis of authority, (2) demonstration of control points in the new system development process at which the authority will be exercised, and (3) initially, a plan for evaluating the program on an ongoing basis; then in subsequent years an annual description of actual program implementation and effectiveness. To supplement this guidance, EPA is making available for public review an informational document entitled Information for States on Implementing the Capacity Development Provisions of the Safe Drinking Water Act. Chapter One of this document contains options States can consider in developing a program that ensures that all new community and new nontransient, noncommunity water systems demonstrate technical, managerial, and financial capacity. This document is available through the Safe Drinking Water Hotline, and can be obtained by calling 1–800–426–4791.

2. The Statutory Background

General Issues

The SDWA Amendments establish an integrated environmental law. Links among different parts of the law create a tapestry of provisions; prevention programs are integrated with, and essential to the success of, new regulatory flexibilities. One of these prevention programs is capacity development. The Amendments require States to ensure that all new community and nontransient, noncommunity systems commencing operation after October 1, 1999 demonstrate technical, managerial, and financial capacity. Ensuring capacity, which prevents costly noncompliance, facilitates the regulatory flexibility of the Amendments.

Read in the context of the Amendments, the statutory basis for the criteria that are presented below is clear. First, when the statute says a State must have the ''legal authority or other means'' to ensure the capacity of new systems, it means that the State must have the authority to intervene in the process of new system development to obtain the necessary demonstration of technical, managerial, and financial capacity. The conference committee report makes clear that the phrase ''legal authority or other means'' means that States must have the ''actual authority'' to ensure the capacity of new systems.

In other words, as described more fully in the criteria, the States must be able to demonstrate that they have, and can exercise, authority to prevent the creation of new community or nontransient, noncommunity systems that do not have technical, managerial, and financial capacity. This implies, and to make functionally effective may require, that there must be some ''control point'' at which a State can say ''no'' to the development of a new system that does not have adequate capacity.

Second, the guidance recognizes a central theme found throughout the Amendments—an approach to State programs that is flexible and recognizes the diversity of State strategies to achieve the objectives of the Amendments. In programs dealing with new system creation, a State may involve a variety of State and local governmental agencies. This guidance accepts the diversity of approaches. It requires only that there be a clear, unambiguous demonstration of State authority to ensure that no new

community or nontransient, noncommunity system will be created if it lacks adequate capacity. Section 1420(a) of the statute emphasizes that the requirement is effectively a performance standard when it says that the Administrator shall withhold a portion of a State's allotment unless the State has obtained the legal authority or other means ''to ensure'' the intended result.

How this statutory mandate is achieved is up to the State. The statute does not require that a particular State agency (e.g., the primacy agency) be responsible; it simply requires that some State agency be responsible. It does not preclude delegation of authority to make the decision to other agencies or to local governments. The statute does, however, require that there be clear State authority to ensure that new systems have adequate technical, managerial, and financial capacity.

Third, the statutory emphasis on all three aspects of capacity—technical, managerial, and financial—requires a comprehensive view of capacity. To comply with this requirement, it is not enough for a State to focus on only one aspect, e.g., technical capacity. Section I of this document provides some suggested parameters for each of the three areas of capacity.

Finally, section 1420 makes explicit that the definition of system capacity be forward looking. Under section 1420(c), for example, States are required to develop a strategy to assist systems in ''acquiring and maintaining'' all three areas of capacity. Thus, to demonstrate capacity, the system must have technical, managerial, and financial capacity on the first day of operation and over time. When States evaluate the capacity of new systems, they must assess both current and future capacity. The criteria shown below are to help States develop an effective program that ensures its new community and nontransient, noncommunity water systems conform with the requirements of the Safe Drinking Water Act.

EPA expects that States will provide, either as part of their DWSRF capitalization grant applications, or as a separate submittal, a full description, explanation, and documentation of their programs for ensuring a demonstration of new system capacity. The Agency will use the criteria discussed in this guidance to evaluate whether the State's program meets the requirements of the SDWA, as amended. EPA is required to begin DWSRF withholding related to new system capacity in fiscal year 1999. Any capitalization grant award made in fiscal year 1999 is subject to the capacity development withholding (including fiscal year 1998 funds awarded in fiscal year 1999). Thus State capitalization grant applications submitted for award in fiscal year 1999, for fiscal year 1999 funds or fiscal year 1998 unawarded funds, must contain a full description, explanation, and documentation of the States program for ensuring a demonstration of new system capacity. Once a State has successfully demonstrated a basis of authority and control points at which the authority will be exercised, the State should include these demonstrations in the operating agreement of its capitalization grant application, but need not include it in each subsequent capitalization grant application (or as a separate submission) unless the basis of authority or control points have changed. However, documentation of ongoing program implementation must be provided in all subsequent capitalization grant applications or as part of the DWSRF annual review.

3. Criteria

For the first year of implementation, EPA will base its withholding decision on whether a State can demonstrate a statutory or regulatory basis of authority to prevent the creation of new community water systems and new nontransient, noncommunity water systems which lack capacity, demonstrate control points for the exercise of that authority, and provide a plan for program implementation and evaluation on an ongoing basis. For subsequent years, if the authority and control points remain unchanged, the withholding decisions will be based on whether the State is consistently implementing its program.

A Basis of Authority

Under section 1420(a), EPA shall withhold 20% of a State's capitalization grant under section 1452 unless the State has obtained the ''legal authority or other means'' to ensure the demonstration of capacity by new community water systems and new nontransient, noncommunity water systems commencing operation after October 1, 1999. This authority must provide the State with the capability to intervene in the process of new system development in order to obtain necessary assurances of technical, managerial, and financial capacity. As explained in the introduction, the phrase ''legal authority or other means'' means that States must have the ''actual authority'' to ensure that new systems have adequate capacity. To meet the requirements of this provision, States must identify and demonstrate this authority. Examples of ''legal authority or other means'' are provided in Chapter Two of the EPA document Information for States on Implementing the Capacity Development Provisions of the Safe Drinking Water Act. Implicit in the requirements of section 1420(a) are the following:

- The State must specify which agency of State government is responsible for ensuring that new systems demonstrate capacity. This agency could be the State SDWA primacy agency. The State, at its sole discretion, may decide which agency is responsible, but there must be a responsible agency.
- The State agency responsible for making determinations of technical, managerial and financial capacity need not always be the SDWA primacy agency. Certification authority for new investor-owned systems, for example, may rest with the State public utility commission. Collaborative arrangements among agencies for controlling new system development must be documented through statutory or other means (such as memoranda of understanding).
- The responsible State agency (or combination of agencies) must possess and demonstrate the ''actual authority'' to prevent the creation of a new system if the system cannot demonstrate adequate technical, managerial, and financial capacity. ''Actual authority'' may take the form of statutory authority, regulations, or other effective and demonstrable means of preventing the creation of a new system due to inadequate capacity.
- Active involvement of local and county entities is one means of addressing new system capacity concerns. The authority for obtaining the necessary assurances of technical, managerial, and financial capacity may be granted initially at the local level, but the State is ultimately accountable for meeting the capacity requirements of the Act, and must have the final authority to ensure new system capacity.

Demonstration of Control Points in the New System Development Process

A control point is a point at which a State (or other unit of government) can make an authoritative decision as to the adequacy of a new system, in terms of its technical, managerial, and financial capacity. Control points allow a State to exercise its legal authority or other means to ensure the capacity of new systems. They provide opportunities to prevent the creation of systems that lack technical, managerial, and financial capacity. Each State must demonstrate to EPA that it has one or more clear

control points. Many control points are possible at both the State and local levels of government. While actions by local governments can be an important part of the process, the State must have at least one control point that allows it to exercise its authority directly. The existence of this authority does not preclude the State from providing advice or technical assistance that could help to ensure that a system has adequate capacity.

Examples of generic control points in the new system development process are described in Chapter Two of the EPA document, Information for States on Implementing the Capacity Development Provisions of the Safe Drinking Water Act.

Plan for Implementation and Evaluation of the New System Capacity Assurance Program

States must develop plans for implementing and evaluating their capacity-assurance program for new systems. The EPA Administrator must make continuing year-by-year determinations with regard to withholding under section 1452(a)(1)(G)(i). Initially, State programs will be assessed prospectively; but evaluations of program implementation and effectiveness will become more important in succeeding years. States must therefore present a plan for program implementation and evaluation as part of their initial demonstration of authority for new systems under section 1420(a). The plan must outline a means of verifying program implementation and evaluating the program. In subsequent years, the State must describe ongoing program implementation and evaluation during the preceding year and plans for program implementation and evaluation during the current year.

III. Guidance for States on Minimum Requirements for State Capacity Development Strategies (to Avoid DWSRF Withholding)

The Safe Drinking Water Act (SDWA) Amendments of 1996 (Pub.L. 104–182) authorize a Drinking Water State Revolving Fund (DWSRF) to help public water systems finance the infrastructure needed to achieve or maintain compliance with SDWA requirements and in achieving the public health objectives of the Act. Section 1452 authorizes the Administrator of the U.S. Environmental Protection Agency (EPA) to award capitalization grants to the States. Section 1420(c) of the Act directs the Administrator to withhold a portion of a State's allotment under section 1452 unless the State is ''developing and implementing a strategy to assist public water systems in acquiring and maintaining technical, managerial, and financial capacity.''

This document provides the criteria that EPA will use in evaluating State capacity development strategies to implement the withholding requirements in section 1420(c) of the Act. Each State will have considerable flexibility in preparing its capacity development strategy. Only minimum criteria will be reviewed to ensure that the State meets the provisions of section 1420(c). The five criteria are (1) solicitation and consideration of public comments, (2) consideration of section 1420(c)(2)(A–E), (3) description of the capacity development strategy, (4) description of strategy implementation, and (5) required actions regarding systems in significant noncompliance. Chapter Three of Information for States on Implementing the Capacity Development Provisions of the Safe Drinking Water Act contains options on how States might meet these requirements. The basis for this guidance is the Administrator's authority to issue guidance and regulations relative to the State Revolving Loan Fund under section 1452(g)(3) the SDWA and the specific provisions of section 1420 of the Act.

EPA views the purpose of this guidance as helping to ensure that the wide and creative flexibility intended under the law for States in framing their capacity development strategies will be available in fact. Section 1452(a)(1)(G)(i) of SDWA states that EPA ''shall withhold'' up to 20% of a State's DWSRF allocation ''if the State has not complied with the provisions of Section 1420(c).'' Thus, some States might be unduly, but understandably, cautious in drafting their strategies if they were largely uncertain about how EPA was going to assess such compliance, and would not want to risk proceeding on a mistaken assumption that might place their DWSRF allocations in jeopardy. EPA believes that fidelity to Congress' intention in this regard and fairness to the States demands that EPA clarify in advance how the directives of Section 1452(a)(1)(G)(i) will be applied, and this guidance seeks to do so.

EPA expects that States will include in their DWSRF capitalization grant applications, or separately and in advance of its application, a full description and documentation of their capacity development strategy. The Agency will use the criteria discussed in this guidance to evaluate whether the State's strategy meets the requirements of the SDWA, as amended. EPA is required to begin DWSRF withholding related to capacity development strategies in fiscal year 2001. Thus, State capitalization grant applications submitted for award in fiscal year 2001 must contain a full description and documentation of the State capacity development strategy or such description and documentation must be submitted separately and in advance of the capitalization grant application. Once a State has successfully demonstrated development of a capacity development strategy, the State should include this demonstration in the operating agreement of its capitalization grant application, but need not include this demonstration in each subsequent capitalization grant application or separate submittal, unless the strategy has changed. However, a full documentation of ongoing strategy implementation must be provided in both the initial and all subsequent capitalization grant applications, or as part of the DWSRF annual review, subject to these provisions.

2. Benefits of a State Capacity Development Strategy

The SDWA Amendments strongly emphasize prevention of drinking water contamination. They seek to avoid new problems through a number of interrelated provisions, such as capacity development, operator certification, and source water protection. Achieving increased technical, financial, and managerial capacity can allow systems to take advantage of operator certification and source water protection and will help prevent compliance problems in the future. The Amendments' new prevention approach has two key elements:

- A clear State lead, with flexibility and resources to achieve results.
- A strong effort to provide information to the public and involve stakeholders in decision-making processes.

The Amendments seek to improve the ability of water systems to reliably provide safe water by requiring States to ensure adequate capacity in new systems and to assist existing systems in acquiring and maintaining capacity through a State capacity development strategy. This strategy is intended to be a plan for the State program to assist water systems in acquiring and maintaining the technical, managerial, and financial capacity to reliably deliver safe drinking water. The tools and approaches that States develop as part of their capacity development strategies will make the Act's implementation more workable, consistent, and effective. Some possible tools and approaches available to States are

described in Chapter Three of EPA's Information for States on Implementing the Capacity Development Provisions of the Safe Drinking Water Act.

3. Criteria

EPA will use the following criteria to evaluate whether or not a State has complied with the capacity development strategy requirements of the SDWA, as amended. States not complying with the statutory requirements face withholding of a portion of their DWSRF allotment, as discussed previously.

Solicitation and Consideration of Public Comment

The Act provides that the States, in preparing their capacity development strategies, ''shall consider, solicit public comment on, and include as appropriate'' the elements listed in section 1420(c)(2)(A–E). To meet its statutory obligations with regard to public comment, a State must:

- Certify that it pro-actively solicited public comments on the listed elements, and that the process of soliciting public comment occurred as part of the preparation of its capacity development strategy.
- Describe all significant public comments and the State's response to those comments.

Definitions

For the purposes of this requirement, several terms must be defined.

A ''proactive process'' is a process that has the following characteristics:

- The State notified the general public—through appropriately visible channels—of the opportunity to provide comment on elements A–E as part of the State's preparation of its capacity development strategy.
- The State identified, before soliciting public comments, the groups that might be interested in the preparation of a capacity development strategy. These groups are likely to be of the same type as those identified in section 1420(c)(2)(E).
- The State ensured that each of the identified groups received a request for public comment on the listed elements.
- The State provided an accessible mechanism for receiving public comment.

'Significant public comment' is any public comment that contributes to or addresses in a substantive manner the development of a comprehensive State strategy. Significant public comment includes comments that suggest changes to, or express support for, any State position. 'Response' to significant public comment is the State's description of the manner in which it used or did not use all significant public comments in preparing its capacity development program. The response must clearly outline how and why the State decided to use or not to use such comments.

States With Existing Strategies

Some States have implemented or are implementing capacity development strategies. Having a strategy does not exempt a State from its responsibility to solicit and consider public comments on that strategy. Each State that has a strategy must solicit and consider public comment on the State's treatment of the listed elements (i.e., elements listed in section 1420(c)(2)(A–E)) in its strategy. One means of doing this is by including the existing strategy in the Intended Use Plan (IUP) and taking effective steps to highlight the opportunity for comments on the substantive elements of the strategy. Each State with an existing strategy must certify that it used a proactive process to solicit public comment, and the State must describe all significant public comments and its response to each of them.

Consideration of Section 1420(c)(2)(A–E)

Under section 1420(c)(2) the State ''shall consider, solicit public comment on, and include as appropriate'' each of the listed elements A through E. These five elements require the State to consider:

i. Methods or criteria that the State will use to identify and prioritize systems most in need of improving technical, managerial, and financial capacity (section 1420(c)(2)(A)).

ii. A description of the institutional, regulatory, and financial, tax, or legal factors at the Federal, State, or local level that encourage or impair capacity development (section 1420(c)(2)(B)).

iii. How the State will use the authority and resources of the SDWA or other means to assist public water systems in complying with drinking water regulations, encourage the development of partnerships between public water systems to enhance technical, managerial, and financial capacity of systems, and assist in the training and certification of operators (section 1420(c)(2)(C)).

iv. A description of how the State will establish the baseline and measure improvements in capacity with respect to drinking water regulations (section 1420(c)(2)(D)).

v. Procedures to identify persons interested and/or involved in the development and implementation of the capacity development strategy (section 1420(c)(2)(E)).

To comply with this requirement, the State must describe the issues it considered relative to each of the listed elements and explain why it included or excluded each element from its capacity development strategy.

Description of the Capacity Development Strategy

EPA must review two aspects of a State's capacity development strategy. First, a State must develop a strategy. This means that there must be a rational basis for concluding that the elements chosen by the State—when taken together and considered as a whole—constitute a strategy that is likely ''to assist public water systems in acquiring and maintaining technical, managerial, and financial capacity'' (section 1420(c)(1)). A State must describe the manner in which the selected elements fit together and achieve the statutory objective. EPA will not evaluate the desirability or potential effectiveness of each element. The Agency will, however, evaluate whether there is a rational basis for concluding that the State has a strategy, as required by section 1420(c)(1).

Second, to complete the report as specified in section 1420(c)(3), a State must describe its plan and means for assessing and measuring its progress toward improving the technical, managerial, and financial capacity of the public water systems in the State. Further, this section requires the State agency responsible for executing the capacity development strategy to prepare a triennial report to the Governor on ''the efficacy of the strategy and progress made towards improving the technical, managerial, and financial capacity of public water systems in the State.'' The State will not meet this requirement if its strategy does not include some means of assessment.

Description of Strategy Implementation

EPA will defer to each State's determination of how the State will implement its plan. Initially, each State only must describe its current strategy implementation efforts, as well as its plans for future strategy implementation. In subsequent years, the State must describe the actual strategy implementation during the preceding year and plans for strategy implementation during the current year.

Required Actions Regarding Systems in Significant Noncompliance

As required by section 1420(b), each State must prepare, periodically update, and submit to the EPA Administrator a

list of community water systems and nontransient, noncommunity water systems that have a history of significant noncompliance. States must also indicate, to the extent practicable, the reasons for this noncompliance.

Each State must also submit, by August 6, 2001, a report to the Administrator on the success of enforcement mechanisms and initial capacity development efforts in helping community water systems and nontransient noncommunity water systems with a history of significant noncompliance to improve technical, managerial, and financial capacity. Both requirements must be met as part of the implementation of a State's capacity development strategy.

Definitions

For the purposes of this requirement, several terms must be defined.

''Periodically update'' is defined as once every 3 years. The first list was due to the Administrator by August 6, 1998. Subsequent lists will be due to the Administrator every three years.

A ''history of significant noncompliance'' means being in significant noncompliance during (at least) any 3 quarters of the previous 3 years.

IV. Guidance for States on Assessment of Capacity for Purposes of Awarding DWSRF Assistance

The Safe Drinking Water Act (SDWA) Amendments of 1996 (Pub.L. 104–182) authorize a Drinking Water State Revolving Fund (DWSRF) to help public water systems finance the infrastructure needed to achieve or maintain compliance with SDWA requirements and to achieve the public health objectives of the Act. Section 1452 authorizes the Administrator of the U.S. Environmental Protection Agency (EPA) to award capitalization grants to the States. The States, in turn, provide assistance to eligible water systems. Under section 1452(a)(3)(A), a State may not provide assistance to a system that lacks the technical, managerial, or financial capability[2] to maintain SDWA compliance, or is in significant noncompliance with any requirement of a National Primary Drinking Water Regulation (NPDWR) or variance. Two exceptions to this requirement are provided in section 1452(a)(3)(B). This provision allows States to provide assistance to a system that is in significant noncompliance if the use of the financial assistance from the DWSRF will ensure compliance. If the system lacks adequate capacity the state may provide DWSRF assistance if the owner or operator of the system agrees to undertake feasible and appropriate changes in operation to ensure technical, managerial, and financial capacity to comply with the SDWA over the long term.

As part of its Capitalization Grant Application, each State must explain how it will review the technical, managerial, and financial capability of all systems that receive assistance. This requirement is separate from the capacity development strategy required under section 1420(c) of the Act. The basis for this guidance is the Administrator's authority to issue guidance under section 1452(g)(3) of the Act.

This guidance document—developed in consultation with States and other stakeholders—provides the minimum requirements for State assessment of a system's technical, managerial, and financial capacity for the purposes of distributing DWSRF funds. To ensure the implementation of section 1452(a)(3)(A), a State must describe its procedures for assessing technical, managerial, and financial capacity at present and for the foreseeable future; whether DWSRF assistance will help to ensure compliance (if a system is not in compliance); and whether the system has a long-term plan to develop adequate capacity (if a system lacks capacity).

EPA recognizes that assessing system capacity is an iterative process, which may change as a State annually prepares its capacity development strategy and evaluates the strategy's success. This guidance provides a phased approach for States to develop and describe their assessment procedures. Initially, States must describe the procedures they will use to assess system capacity. In subsequent years, States must summarize the results of the previous year's assessment and describe any changes to the procedures for assessing technical, managerial, and financial capacity. This allows States to change their assessment procedures to meet the needs of their capacity development strategies. Tools and approaches that States can use to assess system capacity are described in Chapter Four of EPA's Information for States on Implementing the Capacity Development Provisions of the Safe Drinking Water Act.

In developing procedures to assess system capacity, States should recognize that these assessments are to be part of a systematic process that will better enable the State to carry out other tasks required by, or vital to, the law and the drinking water program. By examining the broad goals of the program and of its strategy, a State can select the assessment tools and approaches that will most benefit its overall program. Viewing each component of the capacity development process—including the method for assessing systems—as one part of an integrated whole will enable a State to develop a comprehensive, integrated strategy for capacity development that will make the law's implementation more workable, consistent, and effective. EPA will use the criteria presented below to evaluate State DWSRF capitalization grant applications. Chapter Four of EPA's Information for States on Implementing the Capacity Development Provisions of the Safe Drinking Water Act contains options States can consider in preparing the substance of their assessment procedures.

2. Criteria

Procedure To Assess Technical, Managerial, and Financial Capacity

Section 1452(a)(3)(A) of the Amendments specify that a State may not provide assistance to a system that lacks the technical, managerial, and financial capability to *ensure* SDWA compliance. To comply with this provision, a State must have a procedure to assess the technical, managerial, and financial capacity of water systems at present and for the foreseeable future.

EPA, based upon specific recommendation by the NDWAC, is proposing that a State's procedures to assess technical, financial, and managerial capacity for the purpose of determining whether to award DWSRF assistance be placed in the Intended Use Plan (IUP) of the State's capitalization grant application. This is to ensure adequate opportunity for public review and comment on these procedures prior to implementation.

To meet its statutory obligations under this provision initially, a State must provide in its IUP:

- An assurance that it will assess the technical, managerial, and financial capacity of water systems, and
- A brief description of the procedures that will be used to conduct the assessment of capacity at present and for the foreseeable future.

To meet its statutory obligations under this provision in subsequent years, a State must summarize as part of its capitalization grant application, or as part of the DWSRF annual review, the results of its assessment from the previous year and describe any changes

[2] The term *capability* is synonymous with ''capacity'' for the purposes of this provision of the Act.

to its procedures for assessing capacity at present and for the foreseeable future.

Procedure for Assessing Whether DWSRF Assistance Will Help to Ensure Compliance (If a System Is Not Presently in Compliance)

Section 1452(a)(3)(A) prohibits provision of DWSRF assistance to any system in significant noncompliance with a national primary drinking water regulation or variance unless the use of the financial assistance from the DWSRF will ensure compliance.

To determine which systems are eligible for assistance under section 1452(a)(3)(A), a State must develop a procedure to assess whether such assistance will help to ensure compliance in a system that is presently in significant non-compliance.

To meet its statutory obligations under this provision initially, a State must provide as part of its IUP:

- An assurance that it will assess whether such assistance will help systems in noncompliance ensure that they come into compliance.
- A brief description of the procedures that will be used to conduct the assessment.

To meet its statutory obligations under this provision in subsequent years, a State must summarize, as part of its capitalization grant application, the results of its assessment from the previous year and describe any changes to its procedure for assessment.

Procedure for Assessing Whether the System Has a Long-Term Plan to Undertake Feasible and Appropriate Changes in Operations Necessary to Develop Adequate Capacity (If a System Lacks Capacity)

Section 1452(a)(3)(B) prohibits provision of DWSRF assistance to any system which does not have the technical, managerial, and financial capability to ensure compliance with SDWA, as amended, unless the owner or operator of the system agrees to undertake feasible and appropriate changes in operation to ensure technical, managerial, and financial capacity to comply with the SDWA over the long term.

To determine which systems are eligible for assistance under section 1452(a)(3)(B), a State must develop a procedure to assess whether the system has a long-term plan to undertake feasible and appropriate changes in operations necessary to develop adequate capacity (if a system lacks capacity).

To meet its statutory obligations under this provision initially, a State must provide as part of its IUP

- An assurance that it will assess, for systems presently lacking capacity, whether the system has a long-term plan to undertake feasible and appropriate changes in operations necessary to develop adequate capacity.
- A brief description of the procedures that will be used to conduct the assessment.

To meet its statutory obligations under this provision in subsequent years, a State must summarize as part of its capitalization grant application the results of its assessment from the previous year and describe any changes to its procedure for assessment.

Dated: January 27, 1998.

Cynthia C. Dougherty,

Director, Office of Ground Water and Drinking Water.

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Part VI

Environmental Protection Agency

40 CFR Part 50

National Ambient Air Quality Standards for Particulate Matter; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 50

[AD–FRL–5961–6]

National Ambient Air Quality Standards for Particulate Matter

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On July 18, 1997, EPA announced a supplemental comment period for the limited purpose of taking comments on certain field and laboratory test results associated with the development of the reference method (Appendix L of 40 CFR Part 50) for measuring particles with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers ($PM_{2.5}$) in the ambient air. In the announcement, EPA indicated that upon the close of the comment period it would decide whether any further action would be appropriate. Having carefully assessed the comments received, EPA has determined that no further action is necessary.

ADDRESSES: The comments received during the supplemental comment period and EPA's responses to those comments have been entered into Docket No. A–95–54. The docket is available for public inspection in the Central Docket Section of the U.S. Environmental Protection Agency, South Conference Center, Rm. 4, 401 M St., SW., Washington, DC 20460. The docket may be inspected between 8 a.m. and 3 p.m., Monday through Friday, except legal holidays, and a reasonable fee may be charged for copying.

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SUPPLEMENTARY INFORMATION: On July 18, 1997, EPA published (62 FR 38652) a final rule revising the national ambient air quality standards for particulate matter. In Unit VI.B. (Appendix L—New Reference Method for $PM_{2.5}$) of the preamble to the final rule, EPA concluded that the proposed design and performance specifications for the reference sampler, with modifications described in the final rule, would achieve the design objectives set forth in the proposal. Accordingly, EPA adopted the sampler and other method requirements specified in the revised Appendix L as the reference method for measuring $PM_{2.5}$ in the ambient air. As discussed in the preamble to the final rule, a series of field tests were performed using prototype samplers manufactured in accordance with the proposed design and performance specifications. The results of these field tests confirmed that the prototype samplers performed in accordance with design expectations. Operational experience gained through these field tests did, however, identify the need for minor modifications as discussed in the preamble to the final rule. As explained in that preamble, EPA made other modifications to the proposed design and performance specifications in response to public comment. As part of this process, EPA performed laboratory tests to ensure that the modifications achieved their intended objectives. While the results of the field and laboratory tests were largely confirmatory in nature and did not indicate a need to alter the basic design and performance specifications, they did identify areas that needed further refinement. Given that these tests were performed, by necessity, during and after the close of the public comment period and because the results were not available for placement in the docket until late in the rulemaking process, the preamble to the final rule announced that a supplemental comment period would be afforded for the limited purpose of taking comments on these field and laboratory test results. The following documents present the results of the field and laboratory tests and associated analyses that EPA considered, as discussed in Unit VI.B. of the preamble to the final rule, in making minor modifications or other refinements to the proposed reference method for measuring $PM_{2.5}$ in the ambient air. The documents are:

1. Adaptation of the Low-Flowrate, PM_{10}, Dichotomous Sampler Inlet to Fine Particle Collection.
2. Filter Temperature Specification Report.
3. Flow Rate Specification Report.
4. Laboratory and Field Evaluation of FRM Sampler Report.
5. Prototype $PM_{2.5}$ Federal Reference Method Field Studies Report.

In a separate document published on July 18, 1997 (62 FR 38762), EPA announced a supplemental comment period for the limited purpose of taking public comment on the five documents specified above. The document emphasized that comments received on the reference method for $PM_{2.5}$ that went beyond the scope of the five documents would not be considered. The EPA also indicated in the document that upon the close of the supplemental comment period, it would consider the comments received and then decide whether any further action was appropriate. In response to the July 18, 1997 document, EPA received comments from three organizations. The EPA has conducted a careful assessment of the comments and has concluded that they raise no issues not considered prior to promulgation of Appendix L or addressed in the quality assurance guidelines to be presented in Section 2.12 of the Quality Assurance Manual for Air Pollution Measurement Systems. Accordingly, EPA has concluded that no additional rulemaking action is necessary as a result of the comments received during the supplemental comment period. A summary of the significant issues raised by the commenters and EPA's responses has been entered in Docket No. A–95–54 and is reproduced as Appendix A to this document.

Appendix A—Responses to Significant Comments on Field and Laboratory Test Results Regarding Federal Reference Method for Measuring $PM_{2.5}$ in the Ambient Air, Docket No. A–95–54, October 1997

Summary

On July 18, 1997 (62 FR 38762), EPA announced a supplemental comment period for the limited purpose of taking public comment on the results of various laboratory and field tests and associated analyses involving the new Federal Reference Method for measuring $PM_{2.5}$ in the ambient air (Appendix L of 40 CFR part 50). The new Federal Reference Method (FRM) was adopted on July 18, 1997 (62 FR 38652) in conjunction with new national ambient air quality standards for $PM_{2.5}$ (40 CFR 50.7). During the supplemental comment period announced on July 18, three organizations submitted comments.

The EPA has reviewed the comments received and has concluded that none of them presents issues that were not previously considered in the development of the FRM for $PM_{2.5}$, or that have not been addressed in the specific quality assurance guidelines to be presented in Section 2.12 of the Quality Assurance Manual for Air Pollution Measurement Systems. Accordingly, it is unnecessary to take further rulemaking action or to postpone

implementation of the Federal Reference Method for $PM_{2.5}$ as a result of any of the comments.

Significant comments raised in each commenter's letter are summarized below, together with EPA's responses.

Item VI–D–04 Author: EPRI.

Comment: FRM sampler provides biased results due to known losses of volatile and semi-volatile aerosol components.

Response: The FRM sampler was never intended to collect and measure all semi-volatile aerosol components. The sampler was designed to closely approximate the measurements obtained by the type of samplers used in the health studies that served as the basis for the $PM_{2.5}$ standards. Moreover, the new monitoring regulations require supplemental monitoring at a 50-site national speciation network in which volatile and semi-volatile aerosol components will be measured, thus providing a more complete characterization of the ambient aerosol.

Item VI–D–05 Author: American Petroleum Institute.

Comment: Efficacy of the rain shroud has not been demonstrated regarding minimizing rain or snow intrusion.

Response: The EPA has been evaluating three identical prototype inlets which meet the dimensional specifications of the new $PM_{2.5}$ FRM inlet. In these field tests conducted at Research Triangle Park, NC, three prototype FRM samplers containing the prototype inlets were collocated with six prototype FRM samplers containing the older style PM_{10} inlet (as proposed for the $PM_{2.5}$ reference method sampler on December 13, 1996). Although relatively few significant rain events occurred in the area during this time period, inspection of the samplers appeared to indicate that the new inlet design was more effective at minimizing rain intrusion than the older design.

The performance of the prototype inlets was also evaluated under artificial conditions designed to simulate periods of heavy rainfall. For these tests, two identical prototype reference method samplers were collocated outdoors such that their inlets were at the same elevation but positioned approximately 0.7 m apart horizontally. One of the two samplers used the prototype new $PM_{2.5}$ inlet design while the other sampler used the older PM_{10} inlet design. An oscillating type sprinkler was then used to expose the two samplers to conditions of accelerated rainfall. The sprinkler nozzle was oriented to provide equal coverage to the two inlets and adjusted so the angle of incidence continuously varied between 0° and 90° relative to the inlet. A rain gauge was positioned between the two samplers and used to measure the quantity of simulated rainfall to which the samplers were exposed. Over a 2-day time period, eight discrete tests were conducted, each having a duration of 3 hours. At the completion of each test, the sprinkler was turned off, the rain gauge measurement was noted, and the water volume was measured in each of the sampler's collection jars. Prior to the next test, the rain gauge and collection jars were emptied, and the inlet locations were alternated between samplers in order to minimize any positional effects or flow system effects on the test results.

Results of these simulated rainfall tests are summarized in Table 1. The simulated rainfall during each 3-hour time period ranged between 3.5 inches and 7 inches with a mean value of 4.75 inches. Inspection of Table 1 reveals that the older style PM_{10} inlet collected a range of 80 ml to 450 ml of water during each rain event. As expected, observations during the simulated tests indicated that rain intrusion into the inlet was maximum when rain impinged at an angle normal to the face of the sampler's insect screen. This phenomenon is typically observed in the field during periods of rain accompanied by elevated horizontal wind speeds. In contrast to the older PM_{10} inlet, no water droplets were observed to collect inside the prototype $PM_{2.5}$ inlet during any of the eight replicate tests. During the entire testing totaling 38 inches of simulated rainfall, the new $PM_{2.5}$ inlet collected no water while the older PM_{10} inlet collected over 1600 ml of water. Although these simulated rainfall tests cannot exactly simulate all the conditions that the samplers might encounter in the field, these results indicate that the new $PM_{2.5}$ inlet design was much more effective at minimizing rain intrusion than the older, original PM_{10} design.

TABLE 1.—RESULTS OF SIMULATED RAINFALL TESTS FOR $PM_{2.5}$ Inlet Evaluation

Test No.	Simulated rainfall (inches)	Volume of water in collection jar (ml)	
		PM_{10} inlet	$PM_{2.5}$ inlet
1	4.5	100	0
2	4.5	220	0
3	4.0	80	0
4	4.5	200	0
5	5.0	450	0
6	5.0	80	0
7	3.5	80	0
8	7.0	420	0

TABLE 1.—RESULTS OF SIMULATED RAINFALL TESTS FOR $PM_{2.5}$ Inlet Evaluation—Continued

Test No.	Simulated rainfall (inches)	Volume of water in collection jar (ml)	
		PM_{10} inlet	$PM_{2.5}$ inlet
	Mean = 4.75 in	Mean = 204 ml	Mean = 0 ml

Comment: Filter temperature overheats measured in February do not adequately represent those which might be measured in summer.

Response: Evaluation of prototype FRM at RTP, NC after February indicated that overheats of 3° C were occasionally observed but 5° C overheats were not observed even on days when radiant fluxes at the sampling site exceeded 1200 W/m^2.

Comment: The 6/30/97 McElroy/Frank memorandum provides a tabular summary of FRM $PM_{2.5}$ precision measurements used to revise upward the method detection limit (MDL) specification from 1 μg/m^3 to 2 μg/m^3. Detailed analysis is difficult since individual data are not provided or cited. However, inserting the reported mean daily precisions into the definition of MDL (and assuming that blank means=0) yields minimum MDLs of 2.3 μg/m^3 for Denver and RTP locations and 3.7 μg/m^3 for Azusa, values that differ from those reported in the table where Denver = 2 μg/m^3, RTP = 3 μg/m^3, Azusa = 2 μg/m^3.

Response: The change in estimated method detection limit from 1 μg/m^3 to 2 μg/m^3 was due to information gained through field use of prototype samplers since the regulation was initially proposed. As specified originally in the December 13, 1996 proposal, the detection limit of the $PM_{2.5}$ mass concentration measurement "* * * is determined primarily by the repeatability (precision) of filter blanks * * *." At the time the regulation was proposed, field data had not yet been collected to determine the variability of field blanks. For this reason, laboratory blanks were used to provide a preliminary estimate of the method's precision. Once prototype samplers became available, specialized field studies conducted in Denver, Azusa, and RTP provided a data base upon which to provide actual estimates of the method's detection limit. The final regulation as promulgated on July 18, 1997 updated the preliminary estimate and modified the text to indicate that field blanks were used for estimating the method detection limit. In particular, Section 3.1 was modified to read, "The

lower detection limit of the mass concentration measurement range is estimated to be approximately 2 μg/m³, based on noted mass changes in field blanks * * *.'' Thus, the use of actual field data in conjunction with a minor modification in the MDL's definition accounted for the revision in the method detection limit.

The commenter apparently misinterpreted the precision table included in the docket (reproduced in Table 2 below). The values reported in the last column of the table refer to the precision of measured $PM_{2.5}$ concentrations and have no relationship with measured precision of field blanks. This apparent misinterpretation led to the commenter's conclusion that the original method detection limit calculations were in error. The enclosed Table 3 below presents actual data from the three field sites relating to the observed mass changes in the field blanks. As indicated in the final column of Table 3, the method detection limits determined at Denver, Azusa, and RTP were 2 μg/m³, 2 μg/m³, and 3 μg/m³, respectively. This actual field information was the basis for the July 18, 1997 text which stated that the method detection limit ''* * * is estimated to be approximately 2 μg/m³.''

TABLE 2.—SUMMARY OF PRECISION TESTS AT 3 SEPARATE SITES

[Method Detection Limit (Field Blanks) = |Mean| + 10 * (Std. Dev.)]

Site	Dates	No. days	Prototype samplers evaluated	$PM_{2.5}$ range (μg/m³)	Mean $PM_{2.5}$ conc. (μg/m³)	Method detection limit (μg/m³)	Mean daily precision (std. dev.) (μg/m³)
DENVER, CO	Dec. 10–22	10	6 Graseby-Andersen	1.4 to 20.6	10.9	2	0.23
AZUSA, CA	March 25–April 10, 1997.	9	6 Graseby-Andersen	6.0 to 32.1	18.6	2	0.37
RTP, NC	April 4–30, 1997	13	3 R&P	7.2 to 18.5	11.7	3	0.23

TABLE 3.—CALCULATED METHOD DETECTION LIMIT AT 3 SEPARATE SITES

[Method Detection Limit (Field Blanks) = Mean + 10 * (Std. Dev.)]

Site	Dates	Number of sampling days	Total number of field blanks	Mean of daily field blanks (μg/m³)	Standard deviation of daily field blanks (μg/m³)	Method detection limit (μg/m³)
Denver, Co	Dec. 10–22, 1996	10	30	−.010	0.19	2
Azusa, CA	March 25—April 10, 1997	8	24	0.18	0.22	2
RTP, NC	April 4–30, 1997	8	24	0.52	0.27	3

Comment: The 25 C limit should be termed ''post-acquisition'' rather than ''post-sampling.''

Response: This is a good suggestion, and this terminology will be employed in Section 2.12 of the Quality Assurance Handbook for Air Pollution Measurement Systems.

Comment: The 9/96 G. H. Achtelik report offers at best a lower bound estimate of filter volatiles loss.

Response: Studies are currently being performed in Riverside, CA to further characterize the effects of volatile losses. In addition, EPA requires a 50-site chemical speciation network in which volatile and semi-volatile aerosol components will be measured.

Comment: Midnight to midnight sampling may provide different measured concentrations than noon to noon sampling due to water of crystallization effects.

Response: It was necessary to maintain the midnight to midnight sampling for $PM_{2.5}$ to be consistent with the sampling schedules for other particulate measurements and to not unduly constrain the work schedules of site operators. However, if such effects are suspected, operators are encouraged to re-weigh filters after additional conditioning (beyond the minimum 24 hours).

Comment: A number of lingering problems were identified in the field tests.

Response: One of the purposes of these field tests was to develop preventative maintenance guidelines for routine operation of these samplers. None of these problems was unexpected, and each will be addressed in Section 2.12 of the Quality Assurance Handbook for Air Pollution Measurement Systems. Note also that these tests were performed using prototype and not production model $PM_{2.5}$ samplers.

Comment: A field calibration protocol should be developed to test the performance of the inlets.

Response: While the intent of the comment is understood, the recommended calibration protocol would be cumbersome, time consuming, and not precise enough to measure any realistic changes in fractionator performance.

Comment: Poor correlation achieved by the Tucson site technician might indicate the samplers are not user-friendly and/or require special field personnel.

Response: It should be noted that all of these studies were performed using prototype samplers that were operated using procedures that were at that time still under development. Taking this under consideration, the intramethod and intermethod results from all the other studies could have been interpreted as being closer than expected. The lower intramethod precision observed at the Tucson site can no doubt be attributed to a combination of contributing factors. As noted in the EPA staff report, ''* * * the Tucson study was operated by a site technician as additional and unassisted duties to his normal work load * * *.'' Of equal importance is the fact that the mean concentration at the Tucson site was appreciably lower than at any of the other five sampling sites. At low ambient concentrations, the effect of

sample handling, conditioning, and weighing uncertainties becomes much more important than at higher concentrations. It is reasonable to expect, therefore, that higher intrasampler variability would be observed at the Tucson site than at the other sampling sites. An assertive quality assurance program will be included within the implementation of the national monitoring network.

Specialized tests were conducted in Azusa, CA to determine if local site personnel would experience significantly more variability with the prototype FRM samplers than would be experienced by specially trained researchers. First, aerosol researchers conducted 6 days of 22-hour sampling using six identical $PM_{2.5}$ samplers. Mean precision in $PM_{2.5}$ concentrations was measured to be 0.4 μg/m^3. Using the same procedures, site operators from the South Coast Air Quality Management District then conducted their own precision tests with the same samplers. Mean precision in $PM_{2.5}$ concentrations was also measured to be 0.4 μg/m^3. Incidentally, this measured intrasampler variability was appreciably less than the 2 μg/m^3 maximum value allowed by the regulations.

Item VI–D–06 Author: National Cotton Council of America.

Comment: Based on impactor theory developed by Ranz and Wong, Parnell et al contend that the impactor cutpoint is actually 2.74 μm rather than the 2.5 μm design value.

Response: There are basically two problems associated with the Parnell et al approach. First, although the 1952 Ranz and Wong research led to important insights regarding impactor theory, it was an early work which could not properly account for the effects of complex impactor design parameters such as jet-to-plate distance, throat length, and fluid Reynolds number. Only the development of sophisticated numerical analysis techniques in conjunction with the advent of high speed computers allowed detailed analysis of fluid flow fields and of particle trajectories within the flow fields. In particular, important advances in our understanding of inertial impactors were made by Marple (1970) and Marple and Liu (1975). It was upon these improved design guidelines that the EPA prototype WINS was developed. Based on this well-accepted inertial impactor theory, one would predict a cutpoint of 2.44 μm aerodynamic diameter for the WINS impactor rather than the 2.74 μm value predicted by the simplistic approach of Ranz and Wong.

The second problem associated with the Parnell et al. approach is that impactor theory can never be used to reliably predict an actual impactor's performance. Despite advances since the Ranz and Wong work, conventional impactor theory only provides starting guidelines upon which to base impactor design. In reality, a number of factors can affect a given impactor's performance including actual component dimensions, flow rate, particle bounce, particle re-entrainment, wall losses, and electrostatic effects. If one is interested in determining an impactor's actual performance, therefore, the impactor must be calibrated in the laboratory under carefully controlled conditions using primary calibration aerosols. The novel geometry of the WINS impactor reinforced the need for laboratory calibration to determine its actual performance. As described in ''Modification and Evaluations of the WINS Impactor,'' the experimentally determined cutpoint of the WINS impactor was measured to be approximately 2.48 μm aerodynamic diameter at standard temperature and pressure conditions.

References: Marple V.A. and Willeke K. (1976) Impactor design. Atmos. Envir. 10:891–896.

Marple V. A. and Liu B.Y.H. (1975) On fluid flow and aerosol impaction in inertial impactors. J. Coll. & Interface Sci. 53:31–34.

Comment: PM from agricultural operations has different characteristics than that used in the laboratory calibration. Actual performance of the WINS may be different in the field.

Response: Laboratory tests showed that there was no difference in collection between liquid and solid aerosols. Fractionation of the aerosol using its aerodynamic properties automatically accounts for the particle's physical size, shape, and density.

Comment: The data presented in ''Flow Rate Specification Report'' seems to indicate that flow rate errors in FRM prototype samplers are not random but systematically understate the actual flow rates. As a consequence, the sampled particles actually have a higher momentum than the FRM measurements imply, adversely affecting the interpretation of the penetration curves.

Response: It is important to understand that no flow control system is inherently accurate and that all systems require periodic calibration. There are several factors which affect the flow rate accuracy of any individual FRM sampler. Because automatic volumetric flow control involves separate measurements of several key parameters (*e.g.*, ambient temperature, ambient pressure, etc.), any inaccuracies in their actual measurements will naturally result in inaccuracies in flow control. Although these parameters are typically calibrated at the same time as the initial flow calibration, any drift in their response since the time of calibration will naturally result in variations in flow control. For example, if pressure transducer circuitry is not properly compensated for temperature, significant reductions in ambient temperature can result in directional biases in ambient pressure measurements. These pressure measurement biases can, in turn, naturally result in directional biases in flow control.

Because collocated, identical instruments are typically calibrated in the field using the same flow transfer standard, it is reasonable to expect that any directional bias in the transfer standard's calibration will also result in biases among the group of collocated samplers in the same direction as that of the transfer standard. Thus, if the flow transfer standard and NIST traceable audit device do not agree exactly, we tend to observe directional differences in flow response among a set of samplers. In the case of the sample flow data provided in the docket, the actual flow rates measured by the NIST traceable flow standard were always higher (mean value = 0.9 percent higher) than the flow value indicated by the instruments. Actual flow rates are positively biased, therefore, which accounts for the percent error direction used in reporting the flow audit results.

Regardless of one's individual choice of bias direction, the effect of the flow bias can be predicted with respect to magnitude and direction. These effects can be conveniently grouped into aspiration and particle transport effects, effects of flow bias on fractionator performance, and effects of flow bias on calculated $PM_{2.5}$ concentrations. These factors are considered separately below.

Aspiration and Particle Transport Effects: Although major biases in sampler flow rate can adversely effect the sampler's inlet aspiration, minor flow rate biases should have negligible effects on the inlet's ability to withdraw representative aerosol samples from the ambient air and transport the aspirated aerosol efficiently throughout the sampling system. The FRM specifications for flow rate control were designed to ensure that large errors in flow control would be identified during sampling and that appropriate action (*i.e.*, sampler shutdown and/or warning flags) would be automatically taken.

Effects on Fractionator Performance: Similar to the effect of flow rate bias on the sampler's aspiration performance, minor flow rate biases should have negligible effects on the sampler's ability to accurately fractionate an aspirated aerosol. For small variations in flow rate (such that the jet Reynolds number is not significantly altered), the fractionator's cutpoint is inversely proportional to the square root of the volumetric flow rate. For the EPA WINS impactor which possesses a cutpoint of 2.48 µm at 16.67 L/min., for example, a 2 percent increase in flow rate would result in only a 1 percent decrease in cutpoint to 2.46 µm. Similarly, a 2 percent decrease in flow rate would result in only a 1 percent increase in cutpoint to 2.50 µm. Moreover, these 1 percent predicted changes in fractionator cutpoint would result in an even smaller bias in collected $PM_{2.5}$ mass concentration. Since the expected mass collected is a function of both the fractionation curve and the mass size distribution of the aerosol to which it is exposed, numerical sensitivity analysis has been performed on three idealized ambient distributions. Assumed parameters for the distribution are identical to those used in 40 CFR part 53 Table F–3 for coarse, ''typical,'' and fine ambient aerosol distributions. Since only the cutpoint of the fractionator curve can be expected to change at low flow rate biases, the predicted fractionation curve can numerically integrate with each of the ambient distributions to calculate the expected measured mass concentration as a function of flow rate bias.

Results presented in the table below indicate that a maximum bias in expected mass concentration of approximately 0.6 percent would be associated with flow biases of 2 percent. Note that higher flow rates result in lower fractionator cutpoints, which results in lower mass gains than would normally occur.

Distribution	Expected bias in measured mass concentration solely as a function of flow-induced cutpoint changes		
	−2% flow bias (Dp50=2.46 µm) (percent)	0% flow bias (Dp50=2.48 µm) (percent)	+2% flow bias (Dp50=2.50 µm) (percent)
Coarse	+0.5	0	−0.6
"Typical"	+0.2	0	−0.2
Fine	+0.2	0	−0.2

Effects on Calculated $PM_{2.5}$ Mass Concentration: As discussed above, the effects of flow biases on inlet aspiration performance and fractionator cutpoint are essentially negligible. The primary effect of flow rate biases on $PM_{2.5}$ measurements concerns the calculation of $PM_{2.5}$ concentration from the measured mass gain of the filter divided by the volume of air sampled as reported by the sampler. Because the FRM samplers are designed to continuously adjust volumetric flow rate to the design setpoint flow rate of 16.67 actual L/min., the sampled air volume reported by the instrument is typically very close to the design flow rate times the sampling duration. If, for example, the flow rate reported by the sampler was in fact low by 2 percent, the sampler would have sampled, fractionated, and collected a fine particulate mass which was approximately 2 percent higher than it should have been. Since the calculated $PM_{2.5}$ concentration is simply the measured mass divided by the indicated sampled air volume, the calculated $PM_{2.5}$ concentration would be positively biased by approximately 2 percent. Note that the effects of flow biases on fractionator performance and collected aerosol mass are in opposite directions, thus partially offsetting each other.

Comment: The fractionator used in the FRM should be evaluated in the laboratory after collecting appreciable quantities of polydisperse particles on the impaction plate.

Response: These sensitivity tests were in fact conducted in the laboratory and described in ''Modification and Evaluation of the WINS Impactor.'' The WINS impactor was exposed to laboratory generated polydisperse Arizona test dust for three 24-hour periods where the mean dust concentration was measured to be 330 $\mu g/m^3$. After each 24-hour collection period, the performance of the loaded substrate was evaluated in the laboratory using primary calibration aerosols. Results showed that the fractionator could be exposed to ambient aerosol concentrations averaging 330 $\mu g/m^3$ for 6 consecutive days before a 5 percent bias in measured $PM_{2.5}$ concentration would be expected.

Comment: Favorable results of collocated field tests should not imply that the samplers are accurately measuring $PM_{2.5}$ values, only that similar samplers produce similar results. To verify accuracy, the six samplers should be simultaneously tested in the laboratory using a known and typical aerosol as described in the previous comment.

Response: Because the size and volatility of particles comprising fine ambient particulates vary over a wide range of environmental and sampling conditions, the accuracy of $PM_{2.5}$ measurements cannot be defined in an absolute sense. Instead, EPA defines $PM_{2.5}$ sampler accuracy based on how well the sampler meets all design, construction, and operational specifications set forth for samplers approved for determining compliance with the $PM_{2.5}$ regulations. In particular, field accuracy can be defined by the level of agreement between a given $PM_{2.5}$ sampler and a collocated $PM_{2.5}$ reference audit sampler operating simultaneously. In the case of collocated prototype FRM samplers, favorable agreement among the samplers implies that adequate control is being exercised over uncertainties associated with the sampler's construction, calibration, setup, and operation.

Laboratory calibration of size selective components requires accurate generation and measurement of primary aerosol standards under very carefully controlled conditions. Simultaneous calibration of six identical samplers under these conditions would be impractical. To ensure that production samplers accurately meet the required specifications, the samplers must be manufactured in an ISO–9001 registered facility, and the facility must be maintained in compliance with all applicable ISO 9001 requirements. The manufacturer must also conduct specific tests and submit supporting evidence to EPA demonstrating conformance to critical component specifications such as materials, dimensions, tolerances,

and surface finishes. In conjunction with final assembly and inspection requirements, field tests are used to demonstrate that the samplers meet required performance specifications.

List of Subjects in 40 CFR Part 50

Environmental protection, Air pollution control, Carbon monoxide, Lead, Nitrogen dioxide, Ozone, Particulate matter, Sulfur oxides.

Authority: Secs. 109 and 301(a), Clean Air Act, as amended (42 U.S.C. 7409, 7601(a)).

Dated: January 29, 1998.

Carol M. Browner,

Administrator.

[FR Doc. 98–2878 Filed 2–4–98; 8:45 am]

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federal register

Thursday
February 5, 1998

Part VII

The President

Executive Order 13072—White House Millennium Council

Federal Register
Vol. 63, No. 24
Thursday, February 5, 1998

Presidential Documents

Title 3—

The President

Executive Order 13072 of February 2, 1998

White House Millennium Council

By the authority vested as me as President by the Constitution and the laws of the United States of America, and in order to announce the formation of a Council to recognize national and local projects that commemorate the millennium, it is hereby ordered as follows:

Section 1. *Policy.* The White House, the Department of Education, and all executive branch agencies shall lead the country in a national and educational celebration of our culture, democracy, and citizenry. The Federal Government has a special responsibility to inspire the American people to reflect upon and commemorate the achievements of this country's past and to celebrate the possibilities of the future. To carry forward this country's great democratic tradition and enrich the lives of our children and the children of the 21st century, the Federal Government shall encourage Americans to make plans to mark the new millennium in communities across America. By leading this country in a grand educational celebration of the past and future, the Federal Government has an unprecedented opportunity to energize and unite the Nation with a renewed sense of optimism in the accomplishments and promise of America.

Sec. 2. *White House Millennium Council.* (a) To enable the White House, the Department of Education, and executive branch agencies to provide national leadership in this historic time, I hereby announce the formation of the White House Millennium Council.

(b) The White House Millennium Council shall be composed of a Director, Deputy Director, administrative staff, and a representative from each of the following:

(1) Department of State;

(2) Department of the Treasury;

(3) Department of Defense;

(4) Department of Justice;

(5) Department of the Interior;

(6) Department of Agriculture;

(7) Department of Commerce;

(8) Department of Labor;

(9) Department of Health and Human Services;

(10) Department of Housing and Urban Development;

(11) Department of Transportation;

(12) Department of Energy;

(13) Department of Education;

(14) Department of Veterans Affairs;

(15) Environmental Protection Agency;

(16) Office of Management and Budget;

(17) Small Business Administration;

(18) United States Information Agency; and

(19) General Services Administration.

At the Director's discretion, the Director may request other agencies to be represented on the Council.

(c) The mission of the Council is to lead the country in a celebration of the new millennium by initiating and recognizing national and local projects that contribute in educational, creative, and productive ways to America's commemoration of this historic time. To these ends, the Council shall:

(1) Mark the 200th anniversary of the occupancy of the White House by American Presidents, the 200th anniversary of the establishment of the Federal capital city in Washington, D.C., and the 200th anniversary of the first meeting of the Congress in the Capitol, celebrating these events in the year 2000 as milestones in our democratic system of government;

(2) Plan events to recognize the history and past accomplishments of America that reflect upon the present forces shaping society and that encourage thoughtful planning for the future;

(3) Produce informational and resource materials to educate the American people concerning our Nation's past and to inspire thought concerning the future;

(4) Encourage communities and citizens to initiate and to participate in local projects that inspire Americans to remember their past achievements, understand the present challenges to society, and make concrete contributions to the next generations of their families, communities, and country;

(5) Work with Federal agencies, the Congress, elected officials, and all citizens to plan activities and programs that will unite the American people in contemplation and celebration of the next century and the new millennium;

(6) Make recommendations to the Secretary of the Interior regarding the provision of assistance from funds made available for Save America's Treasures in the Historic Preservation Fund to public and private entities that are protecting America's threatened cultural treasures. These treasures include significant documents, works of art, maps, journals, and historic structures that document and illuminate the history and culture of the United States;

(7) Encourage Federal agencies to develop programs to commemorate and celebrate the new millennium in ways consistent with their individual agency missions and that advance a more unified America in the 21st century;

(8) Encourage Federal agencies, through local branches and offices, to reach out into communities and inspire citizens to participate in grassroots activities and to give permanent gifts to the future;

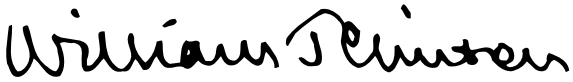
(9) Work in partnership with private-sector and nonprofit entities that initiate productive and worthwhile national and community-based efforts to commemorate the new millennium and encourage citizen participation, volunteerism, and philanthropy;

(10) Highlight public and private millennium initiatives that promote the goals of the Council; and

(11) Cooperate with other nations that are planning millennium events to expand the opportunities for international communication and understanding.

Sec. 3. *Administration.* To the extent permitted by law, the heads of executive departments and agencies shall provide such information and assistance as may be necessary for the Council to carry out its functions.

Sec. 4. *Judicial Review.* This order does not create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any other person.



THE WHITE HOUSE,
February 2, 1998.

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Air programs; State authority delegations:
- New Mexico; published 2-5-98

Air quality implementation plans; approval and promulgation; various States:
- New York; published 12-22-97

GENERAL SERVICES ADMINISTRATION

Federal property management:
- Utilization and disposal—
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Surface Mining Reclamation and Enforcement Office

Permanent program and abandoned mine land reclamation plan submissions:
- Virginia; published 2-5-98

NATIONAL CREDIT UNION ADMINISTRATION

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- Board meetings; scheduling and subject matter; published 2-5-98

SMALL BUSINESS ADMINISTRATION

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- Miscellaneous amendments; published 2-5-98

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- Tobacco; comments due by 2-13-98; published 2-2-98

AGRICULTURE DEPARTMENT

Food Safety and Inspection Service

Meat and poultry inspection:
- Pathogen reduction; hazard analysis and critical control point(HACCP) systems
  - Fresh pork sausage; salmonella performance standard; comments due by 2-11-98; published 1-12-98

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

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- West Coast States and Western Pacific fisheries—
  - Pacific Coast groundfish; comments due by 2-12-98; published 12-29-97

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- Halibut catch sharing plan; regulatory areas 4A and 4B removed; comments due by 2-11-98; published 1-12-98

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- Travel reimbursement; comments due by 2-9-98; published 12-9-97

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- Pesticide active ingredient production; comments due by 2-9-98; published 12-17-97

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- Test methods and performance specifications; editorial changes and technical corrections; comments due by 2-13-98; published 1-14-98
- Volitale organic compound (VOC) emissions—
  - Automobile refinish coatings; comments due by 2-13-98; published 12-30-97

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- Indiana; comments due by 2-13-98; published 1-14-98
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Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
- Chlorothalonil; comments due by 2-10-98; published 12-12-97
- Cyromazine; comments due by 2-9-98; published 12-10-97
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- Uniform system of accounts; interconnection; comments due by 2-9-98; published 12-10-97

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- Oregon and Washington; comments due by 2-9-98; published 1-5-98
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- Travel reimbursement; comments due by 2-9-98; published 12-9-97

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HEALTH AND HUMAN SERVICES DEPARTMENT

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Fish and Wildlife Service

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INTERIOR DEPARTMENT

Surface Mining Reclamation and Enforcement Office

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LABOR DEPARTMENT

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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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