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# federal register

Friday
August 7, 1998

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## UNITED STATES ENRICHMENT CORPORATION

### 10 CFR Part 1101

### Removal of Obsolete Sunshine Act Regulations

**AGENCY:** United States Enrichment Corporation.

**ACTION:** Final rule.

**SUMMARY:** The United States Enrichment Corporation (USEC) is removing from the Code of Federal Regulations obsolete regulations under the Government in the Sunshine Act because the USEC is being privatized and will become a state chartered corporation under the USEC Privatization Act.

**EFFECTIVE DATE:** July 28, 1998.

**ADDRESSES:** 2 Democracy Center, 6903 Rockledge Drive, Bethesda, Maryland 20817.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth Stuckle, (301) 564–3399.

**SUPPLEMENTARY INFORMATION:** Pursuant to the authority of the Energy Policy Act of 1992 (Pub. L. 102–486, 106 Stat. 2776, 42 U.S.C. 2297 et seq.) and the USEC Privatization Act, (42 U.S.C. 2297h et seq.), the privatization of USEC is to be completed on July 28, 1998 (the ''Privatization Date''). On the Privatization Date, the assets and the obligations of USEC are transferred to a state chartered corporation and the interest of the United States in USEC is transferred to the private sector. Pursuant to 42 U.S.C. 2297h–3(b), the state chartered corporation that succeeds to the interests of USEC as of the Privatization Date is not an agency, instrumentality or establishment of the United States, as Government corporation or a Government-controlled corporation. Because the statutory basis for the regulations at 10 CFR Part 1101 will be eliminated, we remove those regulations effective as of the privatization. Because the statutory basis for the regulations ceases in its entirety upon the privatization date of USEC, it is for good cause shown that this final rule be published without notice and without publication of a proposed rule.

**List of Subjects in 10 CFR Part 1101**

Sunshine Act.

Decided: July 28, 1998.

**Robert J. Moore,**

*General Counsel.*

### PART 1101—REMOVED

For the reasons set forth in the premable and under the authority of 42 U.S.C. 2297 et seq., title 10 of the Code of Federal Regulations is amended by removing Part 1101.

[FR Doc. 98–21020 Filed 8–6–98; 8:45 am]

BILLING CODE 8270–01–M

## UNITED STATES ENRICHMENT CORPORATION

### 10 CFR Chapter XI and Part 1102

### Removal of Obsolete Freedom of Information Act Regulations and CFR Chapter

**AGENCY:** United States Enrichment Corporation.

**ACTION:** Final rule.

**SUMMARY:** The United States Enrichment Corporation (USEC) is removing from the Code of Federal Regulations obsolete regulations under the Freedom of Information Act and vacating its CFR chapter because the USEC is being privatized and will become a state chartered corporation under the USEC Privatization Act.

**EFFECTIVE DATE:** July 28, 1998.

**ADDRESSES:** 2 Democracy Center, 6903 Rockledge Drive, Bethesda, Maryland 20817.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth Stuckle, (301) 564–3399.

**SUPPLEMENTARY INFORMATION:** Pursuant to the authority of the Energy Policy Act of 1992 (Pub. L. 102–486, 106 Stat. 2776, 42 U.S.C. 2297 et seq.) and the USEC Privatization Act, (42 U.S.C. 2297h et seq.), the privatization of USEC is to be completed on July 28, 1998 (the ''Privatization Date''). On the Privatization Date, the assets and the obligations of USEC are transferred to a state chartered corporation and the interest of the United States in USEC is transferred to the private sector. Pursuant to 42 U.S.C. 2297h–3(b), the state chartered corporation that succeeds to the interests of USEC as of the Privatization Date is not an agency, instrumentality or establishment of the United States, a Government corporation or a Government-controlled corporation. Because the statutory basis for the regulations at 10 C.F.R. Part 1102 will be eliminated, we remove those regulations effective as of the privatization. Because the statutory basis for the regulations ceases in its entirety upon the privatization date of USEC, it is for good cause shown that this final rule be published without notice and without publication of a proposed rule.

**List of Subjects in 10 CFR Part 1102**

Freedom of information.

Decided: July 28, 1998.

**Robert J. Moore,**

*General Counsel.*

**CHAPTER XI— [REMOVED]**

### PART 1102—[REMOVED]

For the reasons set forth in the preamble and under the authority of 42 U.S.C. 2297 et seq., title 10 of the Code of Federal Regulations is amended by removing part 1102 and vacating chapter XI.

[FR Doc. 98–21021 Filed 8–6–98; 8:45 am]

BILLING CODE 8270–01–M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 39

**[Docket No. 98–CE–03–AD; Amendment 39–10691; AD 98–16–15]**

**RIN 2120–AA64**

### Airworthiness Directives; British Aerospace Model B.121 Series 1, 2, and 3 Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD) that applies to certain British Aerospace Model B.121 Series 1, 2, and 3 airplanes. This AD requires installing an

inspection opening in the area of the main spar web, repetitively inspecting the area at the main spar web for cracks, and repairing or replacing any cracked part. This AD also requires installing nuts of improved design at the wing to fuselage main-spar attachment fittings. This AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for the United Kingdom. The actions specified by this AD are intended to prevent structural failure of the main spar web area caused by fatigue cracking or separation of the wing caused by loose nuts at the wing to fuselage main-spar attachment fittings, which could result in loss of control of the airplane.

**DATES:** Effective September 21, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 21, 1998.

**ADDRESSES:** Service information that applies to this AD may be obtained from British Aerospace (Operations) Limited, British Aerospace Regional Aircraft, Prestwick International Airport, Ayrshire, KA9 2RW, Scotland; telephone: (01292) 479888; facsimile: (01292) 479703. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–03–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. Roger Chudy, Aerospace Engineer, Small Airplane Directorate, Aircraft Certification Service, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone: (816) 426–6932; 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 certain British Aerospace Model B.121 Series 1, 2, and 3 airplanes was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on March 16, 1998 (63 FR 12708). The NPRM proposed to require installing an inspection opening in the area of the main spar web, repetitively inspecting the area at the main spar web for cracks and the area of the wing to fuselage attach bolt holes for corrosion, and repairing or replacing any cracked or corroded part. Accomplishment of the proposed inspections as specified in the NPRM would be required in accordance with British Aerospace PUP Mandatory Service Bulletin No. B121/102, Revision No. 1, Issued April 16, 1997. If necessary, the proposed repair or replacement would be required in accordance with a scheme obtained from the manufacturer through the FAA, Small Airplane Directorate.

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

After issuance of the NPRM, British Aerospace developed additional service information to that referenced in the previous proposal to include the installation of nuts of improved design at the wing to fuselage main-spar attachment fittings and the deletion of the inspection at the area of the wing to fuselage attach bolt holes for corrosion. The improved design nuts provide better torque retention than the ones originally installed.

In addition, British Aerospace re-examined the service history and evaluated reports from the field and changed the compliance time (that is referenced in the service information) for the inspection opening installation and the initial eddy current inspection to upon the accumulation of 2,000 flying hours.

To incorporate the above changes, British Aerospace issued the following service bulletins, which supersede British Aerospace PUP Mandatory Service Bulletin No. B121/102, Revision No. 1, Issued April 16, 1997:

—British Aerospace PUP Mandatory Service Bulletin No. B121/106, dated January 12, 1998, which specifies procedures for replacing the nuts (with improved design nuts) at the wing to fuselage main-spar attachment fittings; and

—British Aerospace PUP Mandatory Service Bulletin No. B121/105, dated January 12, 1998, which specifies procedures for installing an inspection opening in the area of the main spar web, and inspecting the area at the main spar web for cracks. These procedures are basically the same as contained in British Aerospace PUP Mandatory Service Bulletin No. B121/102, Revision No. 1, Issued April 16, 1997.

This prompted the FAA to issue a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain British Aerospace Model B.121 Series 1, 2, and 3 airplanes. This proposal was published in the **Federal Register** as a supplemental NPRM on May 29, 1998 (63 FR 29362). The supplemental NPRM proposed to also require installing nuts of improved design at the wing to fuselage main-spar attachment fittings and deleting the inspection at the area of the wing to fuselage attach bolt holes for corrosion. Accomplishment of the proposed action as specified in the supplemental NPRM would be in accordance with the service information previously referenced.

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 2 airplanes in the U.S. registry will be affected by this AD; that it will take approximately 37 workhours per airplane to accomplish the initial inspection, inspection opening installation, and improved design nut installations; that the average labor rate is approximately $60 an hour. There is no cost for the parts to accomplish the replacements. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be $4,440, or $2,220 per airplane. These figures only take into account the cost of the initial inspections, inspection opening installation, and improved design nut installations; and do not take into account the cost of repetitive inspections. The FAA has no way of determining the number of repetitive inspections each owner/operator of the affected airplanes will incur.

## 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:

**98–16–15 British Aerospace (Operations) Limited:** Amendment 39–10691; Docket No. 98–CE–03–AD.

*Applicability:* Model B.121 Series 1, 2, and 3 airplanes, all serial numbers, 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 (f) 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 failure of the main spar web area caused by fatigue cracking or separation of the wing caused by loose nuts at the wing to fuselage main-spar attachment fittings, which could result in loss of control of the airplane, accomplish the following:

(a) Within the next 100 hours time-in-service (TIS) after the effective date of this AD, replace the nuts (with improved design nuts) at the wing to fuselage main-spar attachment fittings in accordance with British Aerospace PUP Mandatory Service Bulletin No. B121/106, dated January 12, 1998.

(b) Upon accumulating 2,000 hours TIS on the main spar or within the next 50 hours TIS after the effective date of this AD, whichever occurs later, install an inspection opening and inspect, using eddy current methods, the area at the main spar web for cracks in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of British Aerospace PUP Mandatory Service Bulletin No. B121/105, dated January 12, 1998.

**Note 2:** Accomplishing the installation inspection opening and initial eddy current inspection required by this AD in accordance with British Aerospace PUP Mandatory Service Bulletin No. B121/102, Revision No. 1, Issued April 16, 1997, is considered ''already accomplished'' for the requirements of paragraph (b) of this AD.

(c) Within 800 hours TIS after the initial inspection required by paragraph (b) of this AD, and thereafter at intervals not to exceed 800 hours TIS, reinspect the area of the main spar web as specified in paragraph (b) of this AD.

(d) If any cracks are found during any inspection required by this AD, prior to further flight, accomplish the following:

(1) Obtain a repair or replacement scheme from the manufacturer through the FAA, Small Airplane Directorate, at the address specified in paragraph (f) of this AD; and

(2) Incorporate this scheme and continue to repetitively inspect as required by paragraph (c) of this AD, unless specified differently in the instructions to the repair or replacement scheme.

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

(f) An alternative method of compliance or adjustment of the initial or repetitive compliance times 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 3:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Small Airplane Directorate.

(g) Questions or technical information related to British Aerospace PUP Mandatory Service Bulletin No. B121/106, dated January 12, 1998, and British Aerospace PUP Mandatory Service Bulletin No. B121/105, dated January 12, 1998, should be directed to British Aerospace (Operations) Limited, British Aerospace Regional Aircraft, Prestwick International Airport, Ayrshire, KA9 2RW, Scotland; telephone: (01292) 479888; facsimile: (01292) 479703. 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.

(h) The replacements, installation, and inspections required by this AD shall be done in accordance with British Aerospace PUP Mandatory Service Bulletin No. B121/106, dated January 12, 1998, and British Aerospace PUP Mandatory Service Bulletin No. B121/105, dated January 12, 1998. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from British Aerospace (Operations) Limited, British Aerospace Regional Aircraft, Prestwick International Airport, Ayrshire, KA9 2RW, Scotland. 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 4:** The subject of this AD is addressed in British AD 005–01–98, not dated.

(i) This amendment becomes effective on September 21, 1998.

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

**Michael Gallagher,**

*Manager, Small Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 98–20840 Filed 8–6–98; 8:45 am]

BILLING CODE 4910–13–U

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 98–CE–30–AD; Amendment 39–10692; AD 98–16–16]**

**RIN 2120–AA64**

## Airworthiness Directives; Pilatus Aircraft Ltd. Model PC–7 Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD) that applies to certain Pilatus Aircraft Ltd. Model PC–7 airplanes. This AD requires replacing the seal unit on both main landing gear (MLG) legs and the nose landing gear (NLG) leg. This AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Switzerland. The actions specified by

this AD are intended to prevent MLG or NLG failure caused by deterioration of a MLG or NLG leg seal unit, which could result in damage to the airplane or airplane control problems during takeoff, landing, or taxi operations.

**DATES:** Effective September 21, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 21, 1998.

**ADDRESSES:** Service information that applies to this AD may be obtained from Pilatus Aircraft Ltd., Customer Liaison Manager, CH–6371 Stans, Switzerland; telephone: +41 41 619 6233; facsimile: +41 41 610 3351. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–30–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. Roman T. Gabrys, Aerospace Engineer, Small Airplane Directorate, Airplane Certification Service, FAA, 1201 Walnut, 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 certain Pilatus Aircraft Ltd. Model PC–7 airplanes was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on May 29, 1998 (63 FR 29360). The NPRM proposed to require replacing the seal unit on both MLG legs and the NLG leg. Accomplishment of the proposed action as specified in the NPRM would be in accordance with Pilatus Service Bulletin No. 32–018, dated March 6, 1998.

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

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 5 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 8 workhours per airplane to accomplish this action, and that the average labor rate is approximately $60 an hour. Parts cost approximately $932 per airplane. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be $7,060, or $1,412 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:

**98–16–16 Pilatus Aircraft Ltd.:** Amendment 39–10692; Docket No. 98–CE–30–AD.

*Applicability:* Model PC–7 airplanes, all manufacturer serial numbers (MSN) up to and including MSN 609, certificated in any category.

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

*Compliance:* Required as indicated in the body of this AD, unless already accomplished.

To prevent main landing gear (MLG) or nose landing gear (NLG) failure caused by deterioration of a MLG or NLG leg seal unit, which could result in damage to the airplane or airplane control problems during takeoff, landing, or taxi operations, accomplish the following:

(a) Within the next 100 hours time-in-service after the effective date of this AD, replace the seal unit on both MLG legs and the NLG leg in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Pilatus Service Bulletin No. 32–018, dated March 6, 1998.

(b) As of the effective date of this AD, no person may install, on an affected airplane, a MLG leg or NLG leg that does not have an improved seal unit installed in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Pilatus Service Bulletin No. 32–018, dated March 6, 1998.

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

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

**Note 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 Pilatus Service Bulletin No. 32–018, dated March 6, 1998, should be directed to Pilatus Aircraft Ltd., Customer Liaison Manager, CH–6371 Stans, Switzerland; telephone: +41 41 619 6233; facsimile: +41 41 610 3351. 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.

(f) The replacements required by this AD shall be done in accordance with Pilatus Service Bulletin No. 32–018, dated March 6, 1998. 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 Pilatus Aircraft Ltd., Customer Liaison Manager, CH–6371 Stans, Switzerland. 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 Swiss AD HB 98–069, dated March 23, 1998.

(g) This amendment becomes effective on September 21, 1998.

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

**Michael Gallagher,**

*Manager, Small Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 98–20838 Filed 8–6–98; 8:45 am]

BILLING CODE 4910–13–U

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 97–CE–112–AD; Amendment 39–10690; AD 98–16–14]**

**RIN 2120–AA64**

## Airworthiness Directives; Pilatus Britten-Norman Ltd. BN–2, BN–2A, BN–2B, and BN–2T Series Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD) that applies to all Pilatus Britten-Norman Ltd. (Pilatus Britten-Norman) BN–2, BN–2A, BN–2B, and BN–2T series airplanes. This AD requires replacing the attachment bolts, nuts and washers of the lower fitting of the main landing gear (MLG), and adjusting the torque values of the nuts. This AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for the United Kingdom. The actions specified by this AD are intended to prevent the bolts that attach the lower fitting of the MLG to the nacelle from becoming threadbound, which could result in structural failure of the MLG with consequent loss of control of the airplane during takeoff, taxi, or landing operations.

**DATES:** Effective September 21, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 21, 1998.

**ADDRESSES:** Service information that applies to this AD may be obtained from Pilatus Britten-Norman Limited, Bembridge, Isle of Wight, United Kingdom PO35 5PR; telephone: 44–1983 872511; facsimile: 44–1983 873246. 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–112-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. Roger Chudy, Aerospace Engineer, Small Airplane Directorate, Aircraft Certification Service, 1201 Walnut, 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 all Pilatus Britten-Norman BN–2, BN-2A, BN–2B, and BN–2T series airplanes was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on March 19, 1998 (63 FR 13379). The NPRM proposed to require replacing the washers on the attachment bolts of the lower fitting of the MLG. Accomplishment of the proposed action as specified in the NPRM would be in accordance with Pilatus Britten-Norman Service Bulletin BN2/SB.231, Initial Issue, dated October 17, 1996.

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

After issuance of the NPRM, Pilatus Britten-Norman informed the FAA that Service Bulletin BN2/SB.231 has been revised to the Issue 2 status (dated October 1, 1997). This revision changes the procedures to specify replacing the attachment bolts and nuts of the lower fitting of the MLG instead of re-using the existing bolts and nuts. This service information also specifies procedures to adjust the torque loading values of the bolts.

In addition, the FAA has realized that the Model BN–2T–4R airplanes were inadvertently omitted from the proposed AD. At that time, the FAA determined that the Model BN–2T–4R airplanes are of similar type design to those currently listed in the NPRM.

This prompted the FAA to issue a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to all Pilatus Britten-Norman BN–2, BN–2A, BN–2B, BN–2T, and BN–2T–4R series airplanes. This proposal was published in the **Federal Register** as a supplemental NPRM on May 28, 1998 (63 FR 29159). The supplemental NPRM proposed to also require replacing the attachment bolts and nuts of the lower fitting of the MLG and adjusting the torque values of the nuts. Accomplishment of the proposed action as specified in the supplemental NPRM would be in accordance with the service information previously referenced.

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

### Comment Disposition

Pilatus Britten-Norman states that the proposed AD should not apply to the Model BN–2T–4R airplanes. These airplanes utilize a different type wing and an uprated landing gear construction from the rest of the affected models.

After re-examining all information related to this subject, the FAA concurs and has removed the Model BN-2T–4R airplanes from the final rule.

### 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 80 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 3 workhours per airplane to accomplish this action, and that the average labor rate is approximately $60 an hour. Parts cost approximately $10 per airplane. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be $15,200, or $190 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:

**98–16–14** Pilatus Britten-Norman Ltd: Amendment 39–10690; Docket No. 97-CE–112–AD.

*Applicability:* Models BN–2, BN–2A, BN–2A–3, BN–2A–6, N–2A–8, BN–2A–2, BN–2A–9, BN–2A–20, BN–2A–21, BN–2A–26, BN–2A–27, BN–2B–20, BN–2B–21, BN–2B–26, BN–2B–27, and BN–2T airplanes, all serial numbers, 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 within the next 50 landings after the effective date of this AD, unless already accomplished.

**Note 2:** The compliance time of this AD is presented in landings instead of hours time-in-service (TIS). If the number of landings is unknown, hours TIS may be used by multiplying the number of hours TIS by 1.5.

To prevent the bolts that attach the lower fitting of the main landing gear (MLG) to the nacelle from becoming threadbound, which could result in structural failure of the MLG with consequent loss of control of the airplane during takeoff, taxi, or landing operations, accomplish the following:

(a) Replace the attachment bolts, nuts, and washers of the lower fitting of the MLG, in accordance with Pilatus Britten-Norman Service Bulletin No. BN2/SB.231, Issue 2, dated October 1, 1997.

(b) 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 an be accomplished.

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

**Note 3:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Small Airplane Directorate.

(d) Questions or technical information related to Pilatus Britten-Norman Service Bulletin BN2/SB.231, Issue 2, dated October 1, 1997, should be directed to Pilatus Britten-Norman Limited, Bembridge, Isle of Wight, United Kingdom PO35 5PR; telephone: 44–1983 872511; facsimile: 44–1983 873246. 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.

(e) The replacement required by this AD shall be done in accordance with Pilatus Britten-Norman Service Bulletin No. BN2/SB.231, Issue 2, dated October 1, 997. 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 Pilatus Britten-Norman Limited, Bembridge, Isle of Wight, United Kingdom PO35 5PR. Copies may be inspected at the FAA, Central Region, ffice 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 4:** The subject of this AD is addressed in British AD No. 008–10–96, dated January 31, 1997.

(f) This amendment becomes effective on September 21, 1998.

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

**Michael Gallagher,**

*Manager, Small Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 98–20837 Filed 8–6–98; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 98–NM–208–AD; Amendment 39–10693; AD 98–16–17]**

**RIN 2120–AA64**

## Airworthiness Directives; Cessna Model 750 Citation X Series Airplanes

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

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

**SUMMARY:** This amendment adopts a new airworthiness directive (AD) that is applicable to all Cessna Model 750 Citation X series airplanes. This action requires repetitive in-flight functional tests to verify proper operation of the secondary horizontal stabilizer pitch trim system, and repair, if necessary. This amendment is prompted by reports of simultaneous failures of the primary and secondary horizontal stabilizer pitch trim system during flight, due to internal water contamination and corrosion damage in the system actuator. The actions specified in this AD are intended to detect and correct

such contamination and damage, which could result in simultaneous failure of both primary and secondary pitch trim systems, and consequent reduced controllability of the airplane.

**DATES:** Effective August 24, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 24, 1998.

Comments for inclusion in the Rules Docket must be received on or before October 6, 1998.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98-NM–208-AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from Cessna Aircraft Co., P.O. Box 7706, Wichita, Kansas 67277. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Joel M. Ligon, Aerospace Engineer, Systems and Propulsion Branch, ACE–116W, FAA, Small Airplane Directorate, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4138; fax (316) 946–4407.

**SUPPLEMENTARY INFORMATION:** The FAA recently received reports of simultaneous primary and secondary horizontal stabilizer pitch trim system failures during flight on Cessna Model 750 Citation X series airplanes. Inspection of the horizontal stabilizer pitch trim actuators utilized for both primary and secondary pitch trim has revealed evidence of internal water contamination and corrosion damage. This condition may be caused by water being ingested into the actuator due to condensation during airplane descent from high altitude into a warm, humid environment. Subsequent testing by the manufacturer has verified that the trapped water may freeze in the actuator mechanism and disable actuation of both primary and secondary trim. It has been determined that the actuator case seal, as applied to some actuators, may be ineffective at preventing internal water contamination and corrosion damage. Such contamination and damage, if not corrected, could result in simultaneous failure of both primary and secondary trim system, and consequent reduced controllability of the airplane.

## Explanation of Relevant Service Information

The FAA has reviewed and approved Cessna Alert Service Bulletin ASB750–27–22, dated July 2, 1998, which describes procedures for repetitive in-flight functional tests to verify proper operation of the secondary horizontal stabilizer pitch trim system. (Such functional testing of the primary horizontal stabilizer pitch trim system is currently addressed in the FAA-approved Airplane Flight Manual and FAA-approved maintenance procedures for these airplanes.) For airplanes on which the functional test fails, the alert service bulletin also describes procedures for inspection of the actuator components and clutch assemblies for evidence of internal water contamination in the system actuator and corrosion damage; and repair, if necessary.

## Explanation of the 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, this AD is being issued to prevent failure of both primary and secondary pitch trim systems due to internal water contamination and corrosion damage in the system actuator, which could result in reduced controllability of the airplane. This AD requires accomplishment of the actions specified in the alert service bulletin described previously.

## Interim Action

This is considered to be interim action until final action is identified, at which time the FAA may consider further rulemaking.

## Determination of Rule's Effective Date

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

## Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 98–NM–208–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 that it is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final

regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

### List of Subjects in 14 CFR Part 39

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

### Adoption of the Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

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

**98–16–17 Cessna Aircraft Company:** Amendment 39–10693. Docket 98–NM–208–AD.

*Applicability:* All Model 750 Citation X 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 detect and correct internal water contamination and corrosion damage of the secondary horizontal stabilizer trim actuator, which could result in simultaneous failure of both primary and secondary pitch trim systems, and consequent reduced controllability of the airplane, accomplish the following:

(a) Within 10 days after the effective date of this AD, perform an in-flight functional test to verify proper operation of the secondary horizontal stabilizer pitch trim system, in accordance with Cessna Alert Service Bulletin ASB750–27–22, dated July 2, 1998.

(1) If the secondary trim system does not fail during the in-flight functional test, repeat the action thereafter at intervals not to exceed 30 days.

(2) If the secondary trim system fails during the in-flight functional test, prior to next flight, inspect the actuator components and clutch assemblies for evidence of internal water contamination or corrosion damage in accordance with the alert service bulletin. If any evidence of internal water contamination or corrosion damage is detected, prior to further flight, repair in accordance with the alert service bulletin. Repeat the in-flight functional test thereafter at intervals not to exceed 30 days.

(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, Wichita Aircraft Certification Office (ACO), FAA, Small 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, Wichita ACO.

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

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

(d) The actions shall be done in accordance with Cessna Alert Service Bulletin ASB750–27–22, dated July 2, 1998. 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 Cessna Aircraft Co., P.O. Box 7706, Wichita, Kansas 67277. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on August 24, 1998.

Issued in Renton, Washington, on July 29, 1998.

**Darrell M. Pederson,**

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

[FR Doc. 98–20836 Filed 8–6–98; 8:45 am]

BILLING CODE 4910–13–U

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 98–NM–227–AD; Amendment 39–10694; AD 98–16–18]**

**RIN 2120–AA64**

## Airworthiness Directives; Learjet Model 60 Airplanes

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

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

**SUMMARY:** This amendment adopts a new airworthiness directive (AD) that is applicable to certain Learjet Model 60 airplanes. This action requires repetitive measurements of the brake wear dimension between the housing subassembly and the pressure plate that is adjacent to the top pistons of the brake assembly; and follow-on corrective actions, if necessary. This amendment is prompted by reports of abnormal (uneven) brake wear. The actions specified in this AD are intended to detect and repair an abnormal brake wear condition, which could result in loss of brake effectiveness and cause the airplane to leave the runway surface.

**DATES:** Effective August 24, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 24, 1998.

Comments for inclusion in the Rules Docket must be received on or before October 6, 1998.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–227–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from Aircraft Braking Systems Corporation, 1204 Massillon, Akron, Ohio 44306. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Paul C. DeVore, Aerospace Engineer, Systems and Propulsion Branch, ACE–116W, FAA, Small Airplane Directorate, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4142; fax (316) 946–4407.

**SUPPLEMENTARY INFORMATION:** The FAA has received reports from Learjet of an abnormal brake wear condition on certain Learjet Model 60 airplanes. Subsequent investigation, conducted by Aircraft Braking Systems Corporation (ABS) (the manufacturer of the brakes), revealed an abnormal (uneven) brake

wear condition of the friction material (friction mix) on the rotating disks. The uneven wear has been attributed to thermal gradients within the brake stack of the ABS brake assembly. Such abnormal brake wear, if not corrected, could result in loss of brake effectiveness, which could cause the airplane to leave the runway surface.

**Explanation of Relevant Service Information**

The FAA has reviewed Aircraft Braking Systems Service Bulletin LEAR60–32–03, dated March 5, 1998, which describes procedures for repetitive measurements of the brake wear dimension between the housing subassembly and the pressure plate that is adjacent to the top pistons of the brake assembly; and follow-on corrective actions, if necessary. These follow-on actions include performing a visual inspection to detect abnormal wear of the friction mix on the rotating disks, and replacing both rotating disks with new disks, if necessary; and replacing the disk stack with a new disk stack or overhauling it. Accomplishment of certain actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

**Explanation of the 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, this AD is being issued to detect and repair an abnormal (uneven) brake wear condition, which could result in loss of brake effectiveness and cause the airplane to leave the runway surface. This AD requires accomplishment of certain actions specified in the service bulletin described previously.

Operators should note that the service bulletin lists other actions in addition to those described previously. The FAA considers these additional actions to be routine maintenance and therefore has not specified their performance in this AD.

**Determination of Rule's Effective Date**

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

**Comments Invited**

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 98–NM–227–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 that it is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket.

A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

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

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

**Adoption of the Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

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

**98–16–18 Learjet:** Amendment 39–10694. Docket 98–NM–227–AD.

*Applicability:* Model 60 airplanes equipped with Aircraft Braking Systems (ABS) brake assemblies having part number 5003096–7, 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 detect and repair an abnormal (uneven) brake wear condition, which could result in loss of brake effectiveness and cause the airplane to leave the runway surface, accomplish the following:

(a) Within 10 flight hours after the effective date of this AD, measure the brake wear dimension between the housing subassembly and the pressure plate that is adjacent to the top pistons of the brake assembly, in accordance with ABS Service Bulletin LEAR60–32–03, dated March 5, 1998.

(1) If the dimension is less than 0.359 inch (9.12 mm), thereafter repeat the measurement at intervals not to exceed 25 flight cycles.

(2) If the dimension is equal to or greater than 0.359 inch (9.12 mm) and less than 0.464 inch (11.79 mm), prior to further flight, perform a visual inspection to detect abnormal wear of the friction mix on the rotating disks, in accordance with the service bulletin.

(i) If the friction mix is not worn to the disk cores on either disk, thereafter repeat the measurement at intervals not to exceed 25 flight cycles.

(ii) If the friction mix is worn to the disk core on either disk, replace both rotating disks with new disks in accordance with the service bulletin. Thereafter, repeat the measurement at intervals not to exceed 25 flight cycles.

(3) If the dimension is greater than or equal to 0.464 inch (11.769 mm), replace the disk stack with a new disk stack or overhaul it, in accordance with the service bulletin. Thereafter, repeat the measurement at intervals not to exceed 25 flight cycles.

(b) As of the effective date of this AD, no person shall install on any airplane a used ABS brake assembly, part number 5003096–7, unless it has been inspected and applicable corrective actions have been performed in accordance with the requirements of this AD.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Wichita Aircraft Certification Office (ACO), FAA, Small 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, Wichita ACO.

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

(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 Aircraft Braking Systems Corporation Service Bulletin LEAR60–32–03, dated March 5, 1998. 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 Learjet, Inc., One Learjet Way, Wichita, Kansas 67209–2942. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on August 24, 1998.

Issued in Renton, Washington, on July 30, 1998.

**Darrell M. Pederson,**

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

[FR Doc. 98–20970 Filed 8–6–98; 8:45 am]

BILLING CODE 4910–13–P

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 98–NM–180–AD; Amendment 39–10695; AD 98–16–19]**

**RIN 2120–AA64**

## Airworthiness Directives; Boeing Model 747 Series Airplanes

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

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

**SUMMARY:** This amendment adopts a new airworthiness directive (AD) that is applicable to all Boeing Model 747 series airplanes. This action requires, for certain airplanes, revising the Airplane Flight Manual (AFM) to advise the flightcrew of limitations on dry (no fuel) operation of the override/jettison pumps of the center wing fuel tank. This action also requires repetitive inspections for wear or damage of the inlet check valves and inlet adapters of the override/jettison pumps, and replacement of the check valves and pumps with new or serviceable parts, if necessary. Such replacement terminates the AFM revision. This amendment is prompted by a report that inlet adapters of override/jettison pumps were found to be worn excessively, which allowed contact to occur between the inlet check valve and the inducer. The actions specified in this AD are intended to ensure that the flightcrew is advised of the hazards of dry operation of the override/jettison pumps of the center wing fuel tank, and to detect and correct wear or damage to the inlet check valves and inlet adapters of the override/jettison pumps; such conditions, if not corrected, could result in a fire or explosion in the fuel tank during dry operation.

**DATES:** Effective August 24, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 24, 1998.

Comments for inclusion in the Rules Docket must be received on or before October 6, 1998.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–180–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. 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:** Sulmo Mariano, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2686; fax (425) 227–1181.

**SUPPLEMENTARY INFORMATION:** The FAA has received a report indicating that, during an inspection of the fuel system on a Boeing Model 747–400 series airplane, inlet adapters of the override/jettison pumps of the center wing fuel tank were found to be worn. Two of the inlet adapters had worn down enough to cause damage to the rotating blades of the inducer. The inlet check valves also had significant damage. Another operator reported damage to the inlet adapter that was so severe that contact had occurred between the steel disk of the inlet check valve and the steel screw that holds the inducer in place. (Such wear conditions were not found on the override/jettison pumps of the center wing fuel tank that were recovered from a Model 747–400 series airplane involved in an accident, in which the airplane broke up shortly after takeoff from John F. Kennedy International Airport in Jamaica, New York, on July 17, 1996. In addition, those pumps are not believed to have been operating on the accident airplane during that flight because mission fuel had not been loaded into the center tank.)

Wear to the inlet adapters has been attributed to contact between the inlet check valve and the adapter. Vibration, possibly due to oscillations of the fuel flow, causes wear to both the stainless steel disk of the inlet check valve and the inlet adapter. The wear to the inlet adapter is accelerated by the steel disk of the check valve chafing against the edge of the adapter. Such excessive wear of the inlet adapter can lead to contact between the inlet check valve and inducer, which could result in pieces of the check valve being ingested

into the inducer and damaging the inducer and impellers. Contact between the steel disk of the inlet check valve and the steel rotating inducer screw can cause sparks. Also, during dry (no fuel) operation of the fuel pump, excessive temperatures at the contact point between the inlet check valve and the inducer could create an ignition source for fuel vapors. Wear and damage to the inlet check valves and inlet adapters of the override/jettison pumps of the center wing fuel tank, if not corrected, could result in a fire or explosion in the fuel tank during dry operation of the pumps.

**Explanation of Relevant Service Information**

The FAA has reviewed and approved Boeing Alert Service Bulletin 747–28A2212, Revision 2, dated May 14, 1998. This alert service bulletin describes procedures for repetitive detailed visual inspections for wear or damage of the inlet check valves and inlet adapters of the override/jettison pumps of the center wing fuel tank; and replacement of the check valves and override/jettison pumps with new or serviceable parts, if necessary. The inspections involve defueling the center wing tank; removing the override/jettison pumps; examining the seals, hinge pins, and springs of the inlet check valves for wear or damage; and measuring the amount of wear to the stainless steel disks of the inlet check valves and to the inlet adapters.

**Explanation of the 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, this AD is being issued to ensure that the flightcrew is advised of the hazards of dry operation of the override/jettison pumps of the center wing fuel tank; and to detect and correct wear or damage to the inlet check valves and inlet adapters of the override/jettison pumps, which could result in a fire or explosion in the fuel tank during dry operation. This AD requires, for certain airplanes, a revision to the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) to provide the flightcrew with restrictions on operating the override/jettison pumps with less than a certain amount of fuel in the center wing fuel tank. This AD also requires, for all airplanes, repetitive detailed visual inspections for wear or damage of the inlet check valves and inlet adapters of the override/jettison pumps of the center wing fuel tank, and replacement of the check valves and override/jettison pumps with new or serviceable parts, if necessary. Accomplishment of the inspections terminates the AFM revision.

**Determination of Threshold for AFM Revision**

This AD requires that the AFM be revised for airplanes that have accumulated 20,000 total hours time-in-service. The 20,000-hour threshold was established based on reports from the manufacturer that all of the airplanes on which wear or damage to the inlet check valves and inlet adapters of the override/jettison pumps was detected had accumulated more than 40,000 total hours time-in-service. The FAA finds that a threshold of 20,000 total hours time-in-service for requiring the accomplishment of the AFM revision is warranted.

**Differences Between Rule and Alert Service Bulletin**

Operators should note that Boeing Alert Service Bulletin 747–28A2212, Revision 2, dated May 14, 1998, recommends that the accomplishment of the initial inspections be completed within 120 days (from the date of receipt of the service bulletin). While the FAA agrees that 120 days is an appropriate time interval in which the initial inspections can be accomplished and an adequate level of safety maintained, this AD specifies a compliance time of 90 days for the accomplishment of the initial inspections. This 90-day compliance time was developed by taking into account the manufacturer's recommended 120-day compliance time from May 14, 1998 (the service bulletin issue date), as well as the number of work hours required to accomplish the specified actions and the size of the affected U.S.-registered fleet. In consideration of these factors, the FAA finds that a compliance time of 90 days is appropriate in order to address the identified unsafe condition in a timely manner without compromising safety.

**Interim Action**

This is considered to be interim action. The manufacturer has advised that it currently is developing a modification that will positively address the unsafe condition addressed by this AD. Once this modification is developed, approved, and available, the FAA may consider additional rulemaking.

**Determination of Rule's Effective Date**

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

**Comments Invited**

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 98–NM–180–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 that it is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

## List of Subjects in 14 CFR Part 39

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

## Adoption of the Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

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

**98–16–19 Boeing:** Amendment 39–10695. Docket 98–NM–180–AD.

*Applicability:* All Model 747 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 (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

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

To ensure that the flightcrew is advised of the hazards of dry (no fuel) operation of the override/jettison pumps of the center wing fuel tank, and to detect and correct wear or damage to the inlet check valves and inlet adapters of the override/jettison pumps, which, if not corrected, could result in a fire or explosion in the fuel tank during dry operation; accomplish the following:

(a) For airplanes that have accumulated 20,000 total hours time-in-service or more as of the effective date of this AD: Within 14 days after the effective date of this AD, revise the Limitations section of the FAA-approved Airplane Flight Manual (AFM) to include the following procedures. This may be accomplished by inserting a copy of this AD into the AFM.

''If the center tank override/jettison fuel pumps are to be used, there must be at least 17,000 pounds (7,720 kilograms) of fuel in the center tank prior to engine start.

Do not operate the center tank override/jettison fuel pumps with less than 7,000 pounds (3,200 kilograms) of fuel in the center tank. For airplanes with an inoperative center tank scavenge system, this 7,000 pounds of center tank fuel must be considered unusable.

If the center tank override/jettison fuel pumps circuit breakers are tripped, do not reset.''

(b) Prior to the accumulation of 10,000 total hours time-in-service, or within 90 days after the effective date of this AD, whichever occurs later, accomplish the requirements of paragraphs (b)(1) and (b)(2) of this AD, in accordance with the Accomplishment Instructions specified in Boeing Alert Service Bulletin 747–28A2212, Revision 2, dated May 14, 1998.

(1) Perform a detailed visual inspection for wear or damage of the inlet check valve of the left and right override/jettison pumps of the center wing fuel tank.

(i) If the inlet check valve passes all wear and damage criteria, as specified in Figure 3 of the alert service bulletin, accomplish the actions specified in paragraph (b)(1)(i)(A), (b)(1)(i)(B), or (b)(1)(i)(C) of this AD, as applicable.

(A) If the wear to the stainless steel disk is less than or equal to 0.70 inch, and does not penetrate the disk, repeat the inspection thereafter at intervals not to exceed 10,000 hours time-in-service after the last inspection.

(B) If the wear to the stainless steel disk is greater than 0.70 inch, and does not penetrate the disk, repeat the inspection thereafter at intervals not to exceed 1,000 hours time-in-service after the last inspection.

(C) If the wear penetrates the stainless steel disk of the inlet check valve, prior to further flight, accomplish the actions specified in paragraph (b)(1)(ii) of this AD.

(ii) If the inlet check valve fails any wear or damage criteria, as specified in Figure 3 of the alert service bulletin, prior to further flight, replace the existing check valve with a new or serviceable check valve, in accordance with the alert service bulletin. Repeat the inspection thereafter at intervals not to exceed 10,000 hours time-in-service after the last inspection.

(2) Perform a detailed visual inspection for wear or damage of the inlet adapter of the left and right override/jettison pumps of the center wing fuel tank.

(i) If the wear to the inlet adapter is less than or equal to 0.50 inch, prior to further flight, reinstall the existing override/jettison pump, in accordance with the alert service bulletin. Repeat the inspection thereafter at intervals not to exceed 10,000 hours time-in-service after the last inspection.

(ii) If the wear to the inlet adapter is greater than 0.50 inch, but less than 0.60 inch, prior to further flight, accomplish the actions required by either paragraph (b)(2)(ii)(A) or (b)(2)(ii)(B), in accordance with the alert service bulletin.

(A) Install a new or serviceable override/jettison pump, and repeat the inspection thereafter at intervals not to exceed 10,000 hours time-in-service after the last inspection. Or

(B) Reinstall the existing override/jettison pump, and repeat the inspection thereafter at intervals not to exceed 1,000 hours time-in-service after the last inspection.

(iii) If the wear to the inlet adapter is greater than or equal to 0.60 inch, prior to further flight, install a new or serviceable override/jettison pump, in accordance with the alert service bulletin. Repeat the inspection thereafter at intervals not to exceed 10,000 hours time-in-service after the last inspection.

**Note 2:** Boeing Alert Service Bulletin 747–28A2212, Revision 2, dated May 14, 1998, includes figures that illustrate specific areas to inspect for wear and damage.

**Note 3:** Accomplishment of the actions specified in paragraph (b) of this AD prior to the effective date of this AD in accordance with Revision 1 of Boeing Alert Service Bulletin 747–28A2212, dated April 23, 1998, is considered acceptable for compliance with paragraph (b) of this AD.

(c) Accomplishment of the actions specified by paragraph (b) of this AD constitutes terminating action for the requirements of paragraph (a) of this AD. Following accomplishment of those actions, the AFM revision may be removed from the AFM.

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

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

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

(f) The actions shall be done in accordance with Boeing Alert Service Bulletin 747–28A2212, Revision 2, dated May 14, 1998. 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 Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. 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.

(g) This amendment becomes effective on August 24, 1998.

Issued in Renton, Washington, on July 30, 1998.

**Darrell M. Pederson,**

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

[FR Doc. 98–20969 Filed 8–6–98; 8:45 am]

BILLING CODE 4910–13–U

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 98–NM–151–AD; Amendment 39–10699; AD 98–16–22]**

**RIN 2120–AA64**

## Airworthiness Directives; Saab Model SAAB 2000 Series Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD), applicable to certain Saab Model SAAB 2000 series airplanes, that requires a one-time inspection for cracking of the rear pressure bulkhead; and installation of a reinforcement angle on the rear pressure bulkhead; or repair, 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 cracking of the rear pressure bulkhead, which could result in sudden loss of cabin pressure and the inability to withstand fail-safe loads.

**DATES:** Effective September 11, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 11, 1998.

**ADDRESSES:** The service information referenced in this AD may be obtained from Saab Aircraft AB, SAAB Aircraft Product Support, S–581.88, Linkping, Sweden. 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 certain Saab Model SAAB 2000 series airplanes was published in the **Federal Register** on June 9, 1998 (63 FR 31380). That action proposed to require a one-time inspection for cracking of the rear pressure bulkhead; and installation of a reinforcement angle on the rear pressure bulkhead; or repair, if necessary.

### Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

### Conclusion

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 3 airplanes of U.S. registry will be affected by this AD.

It will take approximately 6 work hours per airplane to accomplish the required inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the inspection required by this AD on U.S. operators is estimated to be $1,080, or $360 per airplane.

The required installation will take approximately 10 work hours per airplane, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the installation required by this AD on U.S. operators is estimated to be $1,800, or $600 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:

**98–16–22 SAAB AIRCRAFT AB:** Amendment 39–10699. Docket 98–NM–151–AD.

*Applicability:* Model SAAB 2000 series airplanes, manufacturer serial numbers 004 through 050 inclusive, 052, 053, and 054; 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 cracking on the rear pressure bulkhead, which could result in sudden loss

of cabin pressure and the inability to withstand fail-safe loads, accomplish the following:

(a) Within 4,000 flight cycles after the effective date of this AD, perform a one-time visual inspection for cracking on the rear pressure bulkhead in the area of the lower forward flange that connects to the fuselage skin, in accordance with SAAB Service Bulletin 2000–53–026, dated February 27, 1998.

(1) If no crack is detected, prior to further flight, install a reinforcement angle on the rear pressure bulkhead in the area of the lower forward flange that connects to the fuselage skin, in accordance with the service bulletin. After accomplishment of the installation, no further action is required by this AD.

(2) If any crack is detected, prior to further flight, repair in accordance with a method approved by either the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, or the Luftfartsverket (or its delegated agent).

(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. Operators shall submit their request 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.

(d) The inspection and installation shall be done in accordance with SAAB Service Bulletin 2000–53–026, dated February 27, 1998. 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 Saab Aircraft AB, SAAB Aircraft Product Support, S–581.88, Linköping, Sweden. 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 Swedish airworthiness directive 1–122, dated March 2, 1998.

(e) This amendment becomes effective on September 11, 1998.

Issued in Renton, Washington, on July 31, 1998.

**Darrell M. Pederson,**

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

[FR Doc. 98–21101 Filed 8–6–98; 8:45 am]

BILLING CODE 4910–13–U

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 98–NM–160–AD; Amendment 39–10700; AD 98–16–23]**

**RIN 2120–AA64**

## Airworthiness Directives; Construcciones Aeronauticas, S.A. (CASA) Model CN–235 Series Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD), applicable to all CASA Model CN–235 series airplanes, that requires repetitive high frequency eddy current (HFEC) inspections of the flap transmission shafts to detect cracking, and repetitive functional tests (checks) to verify proper operation of the flap braking sub-system; and corrective actions, 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 detect and correct cracking in the flap transmission shafts, and to correct a malfunctioning flap braking sub-system, which could result in the inability to move the flaps, or in an asymmetric flap condition, and consequent reduced controllability of the airplane.

**DATES:** Effective September 11, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the **Federal Register** as of September 11, 1998.

**ADDRESSES:** The service information referenced in this AD may be obtained from Construcciones Aeronauticas, S.A., Getafe, Madrid, Spain. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at 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 CASA Model CN–235 series airplanes was published in the **Federal Register** on June 8, 1998 (63 FR 31142). That action proposed to require repetitive high frequency eddy current (HFEC) inspections of the flap transmission shafts to detect cracking, and repetitive functional tests (checks) to verify proper operation of the flap braking sub-system; and corrective actions, if necessary.

### Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

### Conclusion

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 2 airplanes of U.S. registry will be affected by this AD, and that it will take approximately 30 work hours per airplane to accomplish the required inspection and functional test, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the inspection and functional test required by this AD on U.S. operators is estimated to be $3,600, or $1,800 per airplane, per cycle.

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:

**98–16–23 Construcciones Aeronauticas, S.A. (CASA):** Amendment 39–10700. Docket 98–NM–160–AD.

*Applicability:* All CASA Model CN–235 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 detect and correct cracking in the flap transmission shafts, and to correct a malfunctioning flap braking subsystem, which could result in the inability to move the flaps, or in an asymmetric flap condition, and consequent reduced controllability of the airplane; accomplish the following:

(a) Prior to the accumulation of 6,000 total landings, or within 30 days after the effective date of this AD, whichever occurs later, perform a high frequency eddy current (HFEC) inspection of the flap transmission shafts to detect cracking, in accordance with Annex I, dated June 16, 1997, of CASA Maintenance Instructions COM 235–113, Revision 02, dated June 16, 1997.

(1) If no cracking is detected, repeat the HFEC inspection thereafter at intervals not to exceed 2,000 landings.

(2) If any cracking is detected, prior to further flight, replace the cracked shaft with a new or serviceable shaft, in accordance with the maintenance instructions; and repeat the HFEC inspection thereafter at intervals not to exceed 2,000 landings.

(b) Prior to the accumulation of 6,000 total landings, or within 30 days after the effective date of this AD, whichever occurs later, perform a functional test (check) to verify proper operation of the flap braking subsystem, in accordance with Annex II, dated July 1, 1997, of CASA Maintenance Instructions COM 235–113, Revision 02, dated June 16, 1997.

(1) If no malfunction is detected, repeat the functional test thereafter at intervals not to exceed 300 landings.

(2) If any malfunction is detected, prior to further flight, replace any discrepant component with a new or serviceable component in accordance with the maintenance instructions; and repeat the functional test to verify proper operation of the flap braking subsystem; repeat the functional test thereafter at intervals not to exceed 300 landings.

(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 request 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 CASA Maintenance Instructions COM 235–113, Revision 02, dated June 16, 1997, including Annex I, dated June 16, 1997, and Annex II, dated July 1, 1997. 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 Construcciones Aeronauticas, S.A., Getafe, Madrid, Spain. 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 Spanish airworthiness directive 11/96, Revision 1, dated June 19, 1997.

(f) This amendment becomes effective on September 11, 1998.

Issued in Renton, Washington, on July 31, 1998.

**Darrell M. Pederson,**

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

[FR Doc. 98–21100 Filed 8–6–98; 8:45 am]

BILLING CODE 4910–13–U

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 98–NM–213–AD; Amendment 39–10696; AD 98–16–20]**

**RIN 2120–AA64**

## Airworthiness Directives; Saab Model SAAB 2000 Series Airplanes

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

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

**SUMMARY:** This amendment adopts a new airworthiness directive (AD) that is applicable to certain Saab Model SAAB 2000 series airplanes. This action requires a one-time visual inspection of the right-and left-hand propeller gearbox to ensure that the attachment nut that secures the borescope plug to the gearbox is installed; and installation of an attachment nut, if necessary. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified in this AD are intended to prevent oil leakage from the propeller gearbox, which could lead to an increase in oil temperature and result in engine shutdown.

**DATES:** Effective August 24, 1998. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 24, 1998.

Comments for inclusion in the Rules Docket must be received on or before September 8, 1998.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–213–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from SaabAircraft 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; 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 LindAvenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax(425) 227–1149.

**SUPPLEMENTARY INFORMATION:** The Luftfartsverket (LFV), which is the airworthiness authority for Sweden, recently notified the FAA that an unsafe condition may exist on certain Saab Model SAAB 2000 series airplanes. The LFV advises that due to an error in Saab Service Bulletin 2000–30–015, dated February 16, 1998, and Statement 73PPS1634, and subsequent to the accomplishment of the actions specified in those documents, the borescope plug on the propeller gearbox may not be secured properly by the attachment nut and may consequently come loose. This condition, if not corrected, could result in oil leakage from the propeller gearbox, which could lead to an increase in oil temperature and result in engine shutdown.

## Explanation of Relevant Service Information

Saab has issued Alert Service Bulletin 2000–A72–001, dated June 12, 1998, and Revision 01, dated June 26, 1998. These alert service bulletins describe procedures for a one-time visual inspection of the right-and left-hand propeller gearboxes to ensure that the attachment nut that secures the borescope plug to the gearbox is installed; and installation of an attachment nut, if necessary. Accomplishment of the actions specified in the alert service bulletins is intended to adequately address the identified unsafe condition. The LFV classified these alert service bulletins as mandatory and issued Swedish airworthiness directive 1–129R1, dated June 26, 1998, in order to assure the continued airworthiness of these airplanes in Sweden.

## FAA's Conclusions

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

## Explanation of Requirements of 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 prevent oil leakage from the propeller gearbox, which could lead to an increase in oil temperature and result in engine shutdown. This AD requires accomplishment of the actions specified in the alert service bulletins described previously.

## Determination of Rule's Effective Date

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

## Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 98–NM–213–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 aFederalism Assessment.

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

## List of Subjects in 14 CFR Part 39

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

## Adoption of the Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

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

**98–16–20 Saab Aircraft AB:** Amendment 39–10696. Docket 98-NM–213-AD.

*Applicability:* Model SAAB 2000 series airplanes, having serial numbers -004 through -056 inclusive; on which Saab Service Bulletin 2000–30–015, dated

February 16, 1998, or Statement 73PPS1634 has been accomplished; 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 (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 oil leakage from the propeller gearbox, which could lead to an increase in oil temperature and result in engine shutdown, accomplish the following:

(a) Within 3 days after the effective date of this AD, perform a one-time visual inspection of the borescope plug in the right-and left-hand propeller gearboxes to ensure that the attachment nut that secures the borescope plug to the gearbox is installed, in accordance with Saab Alert Service Bulletin 2000-A72–001, dated June 12, 1998, or Revision 01, dated June 26, 1998.

(1) If the attachment nut is installed, no further action is required by this AD.

(2) If the attachment nut is not installed, prior to further flight, install an attachment nut on the borescope plug, in accordance with the alert 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, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

**Note 2:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

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

(d) The inspection and installation shall be done in accordance with Saab Alert Service Bulletin 2000-A72–001, dated June 12, 1998, or Saab Alert Service Bulletin 2000-A72–001, Revision 01, dated June 26, 1998. 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 Saab Aircraft AB, SAAB Aircraft Product Support, S–581.88, Linköping, Sweden. 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 Swedish airworthiness directive 1–129R1, dated June 26, 1998.

(e) This amendment becomes effective on August 24, 1998.

Issued in Renton, Washington, on July 31, 1998.

**Darrell M. Pederson,**

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

[FR Doc. 98–21099 Filed 8–6–98; 8:45 am]

BILLING CODE 4910–13–P

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 97–NM–116–AD; Amendment 39–10702; AD 98–16–25]**

**RIN 2120–AA64**

## Airworthiness Directives; Bombardier Model CL–600–2B19 (Regional Jet Series 100 and 200) Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** This amendment supersedes an existing airworthiness directive (AD), applicable to certain Bombardier Model CL–600–2B19 (Regional Jet Series 100 and 200) airplanes, that currently requires repetitive inspections to detect discrepancies of the shock strut end caps and attachment pins of the main landing gear (MLG), and replacement of discrepant parts with new parts. It also requires a check for and replacement of certain pins that currently may be installed on some airplanes. This amendment adds a requirement for the installation of new, improved MLG shock strut upper and lower attachment pins, which constitutes terminating action for the repetitive inspections. This amendment also reduces the applicability of the existing AD by removing certain airplanes. 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 failure of attachment pins and the attachment pin end caps, which could result in failure of the MLG.

**DATES:** Effective September 11, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 11, 1998.

The incorporation by reference of Messier-Dowty Service Bulletin No. M-DT 17002–32–10, Revision 3, dated September 6, 1996, and Canadair Regional Jet Alert Service Bulletin S.B. A601R–32–062, Revision 'C,' dated September 18, 1996, was previously approved by the Director of the Federal Register as of November 21, 1996 (61 FR 57319, November 6, 1996).

**ADDRESSES:** The service information referenced in this AD may be obtained from Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station Centre-ville, Montreal, Quebec H3C 3G9, Canada; and Messier-Dowty Inc., 574 Monarch Avenue, Ajax, Ontario L1S 2GB, Canada. 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 FAA, New York Aircraft Certification Office, Engine and Propeller Directorate, 10 Fifth Street, Third Floor, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** George Duckett, Aerospace Engineer,Airframe and Propulsion Branch, ANE–171, FAA, New York Aircraft CertificationOffice, Engine and Propeller Directorate, 10 Fifth Street, Third Floor, Valley Stream,New York 11581; telephone (516) 256–7525; fax (516) 256–2716.

**SUPPLEMENTARY INFORMATION:** A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 96–22–14, amendment 39–9803 (61 FR 57319, November 6, 1996), which is applicable to certain BombardierModel CL–600–2B19 (Regional Jet Series 100 and 200) airplanes, was published in the**Federal Register** on June 9, 1998 (63 FR 31377). The action proposed to continue to require repetitive inspections to detect discrepancies of the shock strut end caps and attachment pins of the main landing gear (MLG), and replacement of discrepant parts with new parts. It also proposed to continue to require a check for and replacement of certain pins that currently may be installed on some airplanes. The action proposed to add a requirement for the installation of new, improved MLG shock strut upper and lower attachment pins, which would constitute terminating action for the repetitive inspections. That action also proposed to reduce the applicability of the existing AD by removing certain airplanes.

## Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or theFAA's determination of the cost to the public.

## Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

## Cost Impact

There are approximately 41 Model CL–600–2B19 (Regional Jet Series 100 and 200) airplanes of U.S. registry that will be affected by this AD.

The actions that are currently required by AD 96–22–14, and retained in this AD, take approximately 25 work hours per airplane to accomplish, at an average labor rate of$60 per work hour. Based on these figures, the cost impact of the currently required actions on U.S. operators is estimated to be $61,500, or $1,500 per airplane.

The new actions that are required by this new AD will take approximately 13 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts will be supplied by the manufacturer at no cost to the operators. Based on these figures, the cost impact of the new requirements of this AD on U.S. operators is estimated to be $31,980, or $780 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, theFederal Aviation Administration amends part 39 of the Federal Aviation Regulations (14CFR 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 removing amendment 39–9803 (61 FR 57319, November 6, 1996), and by adding a new airworthiness directive (AD), amendment 39–10702, to read as follows:

**98–16–25 Bombardier, Inc. (Formerly Canadair):** Amendment 39–10702. Docket 97–NM–116–AD. Supersedes AD 96–22–14, Amendment 39–9803.

*Applicability:* Model CL–600–2B19 (Regional Jet Series 100 and 200) airplanes, serial numbers 7003 through 7157 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 (f)(1) 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 failure of attachment pins and the attachment pin end caps of the main landing gear (MLG), which could result in failure of the MLG, accomplish the following:

## Restatement of the Requirements of AD 96–22–14

(a) *Serial Number Check.* For airplanes having serial numbers 7003 through 7126 inclusive: Within 150 landings after November 21, 1996 (the effective date of AD 96–22–14, amendment 39–9803), check the serial number of each MLG shock strut lower attachment pin, part number 17144–1, in accordance with paragraphs 2.A. and 2.B. of the Accomplishment Instructions of Canadair Regional Jet Alert Service Bulletin S.B. A601R–32–062, Revision 'C,' dated September 18, 1996; and paragraphs 2.A.(4), 2.B.(4), and 2.C.(3) of the Accomplishment Instructions of Messier-Dowty Service Bulletin M–DT 17002–32–10, Revision 3, dated September 6, 1996.

(1) If the serial number is within the range of DCL206 through DCL259 inclusive, prior to further flight, remove the pin and install a new pin having a serial number outside (either higher or lower) of that range, in accordance with the service bulletins. Thereafter, inspect that replacement pin in accordance with paragraphs (b) and (c) of this AD.

(2) If the serial number is outside of the range (higher or lower) of DCL206 through DCL259 inclusive, thereafter inspect the pin in accordance with paragraphs (b) and (c) of this AD.

(b) *In-Situ Visual Inspection.* Within 150 landings after November 21, 1996, perform an in-situ visual inspection to detect discrepancies of the left- and right-hand shock strut of the MLG, in accordance with paragraphs 2.C. and 2.D. of the Accomplishment Instructions of Canadair Regional Jet Alert Service Bulletin S.B. A601R–32–062, Revision 'C,' dated September 18, 1996; and paragraph 2.B.(1) of the Accomplishment Instructions of Messier-Dowty Service Bulletin M–DT 17002–32–10, Revision 3, dated September 6, 1996.

**Note 2:** In-situ visual inspections that have been accomplished prior to November 21, 1996, in accordance with Messier-Dowty Service Bulletin M–DT 17002–32–10, dated June 13, 1996; Revision 1, dated June 29, 1996; or Revision 2, dated July 17, 1996; are considered acceptable for compliance with paragraph (b) of this amendment.

(1) If no discrepancy is detected, repeat the in-situ visual inspection thereafter at intervals not to exceed every ''A'' check or 400 landings, whichever occurs later.

(2) If any discrepancy is detected, prior to further flight, replace the discrepant part with a new part in accordance with the service bulletins. Thereafter, repeat the in-situ visual inspection at intervals not to exceed every ''A'' check or 400 landings, whichever occurs later.

(c) *Detailed Inspection.* Within 3,000 landings since the date of airplane manufacture, or within 400 landings after November 21, 1996, whichever occurs later, perform a detailed inspection to detect discrepancies of the shock strut end caps and attachment pins of the MLG, in accordance with paragraphs 2.E. and 2.F. of the Accomplishment Instructions of Canadair Regional Jet Alert Service Bulletin S.B. A601R–32–062, Revision 'C,' dated September 18, 1996; and paragraph 2.B.(2) of the Accomplishment Instructions of Messier-Dowty Service Bulletin M–DT 17002–32–10, Revision 3, dated September 6, 1996. Non-destructive testing (NDT) must be accomplished in accordance with the instructions provided or references referred

to in these service bulletins. Where instructions in those documents specify dye penetrant inspections (DPI), accomplish fluorescent penetrant (Type 1) inspections, sensitivity level 3 or higher, using material qualified to Military Standard MIL-I–25135.

**Note 3:** Detailed inspections accomplished prior to November 21, 1996, in accordance with Messier-Dowty Service Bulletin M–DT 17002–32–10, dated June 13, 1996; Revision 1, dated June 29, 1996; or Revision 2, dated July 17, 1996; are considered acceptable for compliance with paragraph (c) of this amendment.

(1) If no discrepancy is detected, repeat the detailed inspection thereafter at intervals not to exceed 2,000 landings.

(2) If any discrepancy is detected, prior to further flight, replace the discrepant part with a new part in accordance with the service bulletins. Repeat the detailed inspection thereafter at intervals not to exceed 2,000 landings.

(d) As of November 21, 1996, no person shall install on any airplane an MLG shock strut lower attachment pin, part number 17144–1, that has a serial number that is within the range of DCL206 through DCL259 inclusive.

## New Requirements of this AD

(e) Within 6 months after the effective date of this AD, install new MLG shock strut upper and lower attachment pins in accordance with Canadair Regional Jet ServiceBulletin S.B. 601R–32–065, dated November 11, 1996. Accomplishment of this installation constitutes terminating action for the repetitive inspections required by paragraphs (b) and (c) of this AD.

**Note 4:** The Canadair service bulletin references Messier-Dowty Service Bulletin M–DT 17002–32–12, dated November 6, 1996, as an additional source of service information to accomplish the installation.

(f)(1) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, New York Aircraft Certification Office (ACO), FAA, Engine and Propeller Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, New York ACO.

(2) Alternative methods of compliance, approved previously in accordance with AD 96–22–14, amendment 39–9803, are approved as alternative methods of compliance with this AD.

**Note 5:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the New York ACO.

(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.

(h) The actions shall be done in accordance with Canadair Regional Jet Service Bulletin S.B. 601R–32–065, dated November 11, 1996; Messier-Dowty Service Bulletin No. M–DT 17002–32–10, Revision 3, dated September 6, 1996; and Canadair Regional Jet Alert Service Bulletin S.B. A601R–32–062, Revision 'C,' dated September 18, 1996. 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.

(1) The incorporation by reference of Canadair Regional Jet Service Bulletin S.B. 601R–32–065, dated November 11, 1996, is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(2) The incorporation by reference of Messier-Dowty Service Bulletin No. M–DT 17002–32–10, Revision 3, dated September 6, 1996, and Canadair Regional Jet Alert Service Bulletin S.B. A601R–32–062, Revision 'C,' dated September 18, 1996, was previously approved by the Director of the Federal Register as of November 21, 1996 (61 FR 57319, November 6, 1996).

(3) Copies may be obtained from Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station Centre-ville, Montreal, Quebec H3C 3G9, Canada. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, New York Aircraft Certification Office, Engine and Propeller Directorate, 10 Fifth Street, Third Floor, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**Note 6:** The subject of this AD is addressed in Canadian airworthiness directive CF–96–12R1, dated January 29, 1997.

(i) This amendment becomes effective on September 11, 1998.

Issued in Renton, Washington, on July 31, 1998.

**Darrell M. Pederson,**

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

[FR Doc. 98–21098 Filed 8–6–98; 8:45 am]

BILLING CODE 4910–13–P

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 98–NM–70–AD; Amendment 39–10697; AD 97–20–10 R1]**

**RIN 2120–AA64**

## Airworthiness Directives; de Havilland Model DHC–8–100, –200, and –300 Series Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** This amendment revises an existing airworthiness directive (AD), applicable to certain de Havilland Model DHC–8–100, –200, and –300 series airplanes, that currently requires modification of the attitude and heading reference systems (AHRS). That action was prompted by a report of loss of power to both AHRS's during flight due to a faulty terminal block to which the signal ground for the AHRS's is connected. The actions specified by that AD are intended to prevent simultaneous power loss to both AHRS's, which could result in reduced controllability of the airplane. This amendment reduces the applicability of the existing AD.

**DATES:** Effective September 11, 1998.

The incorporation by reference of Bombardier Alert Service Bulletin S.B. A8–34–117, Revision 'C', dated February 14, 1997, as listed in the regulations, was approved previously by the Director of the Federal Register as of November 3, 1997 (62 FR 50861, September 29, 1997).

**ADDRESSES:** The service information referenced in this AD may be obtained from Bombardier, Inc., Bombardier Regional Aircraft Division, Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. 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 FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Luciano Castracane, Aerospace Engineer, Systems and Equipment Branch, ANE–172, FAA, New York Aircraft Certification Office, Engine and Propeller Directorate, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256–7535; fax (516) 568–2716.

**SUPPLEMENTARY INFORMATION:** A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by revising AD 97–20–10, amendment 39–10147 (62 FR 50861, September 29, 1997), which is applicable to certain de Havilland Model DHC–8–100, –200, and –300 series airplanes, was published in the **Federal Register** on June 16, 1998 (63 FR 32771). The action proposed to reduce the applicability of the existing AD.

### Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

### Conclusion

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 167 de Havilland Model DHC–8–100, –200, and –300 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 $10 per airplane. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $41,750, or $250 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 removing amendment 39–10147 (62 FR 50861, September 29, 1997), and by adding a new airworthiness directive (AD), amendment 39–10697, to read as follows:

**97–20–10 R1 De Havilland, Inc.:** Amendment 39–10697. Docket 98–NM–70–AD. Revises AD 97–20–10, Amendment 39–10147.

*Applicability:* Model DHC–8–100, –200, and –300 series airplanes; serial numbers 3 through 472 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 simultaneous power loss to both attitude and heading reference systems (AHRS), which could result in reduced controllability of the airplane, accomplish the following:

(a) Within 400 hours time-in-service after November 3, 1997 (the effective date of AD 97–20–10, amendment 39–10147), modify the AHRS's, in accordance with Bombardier Alert Service Bulletin S.B. A8–34–117, Revision 'C', dated February 14, 1997.

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

**Note 2:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the New York ACO.

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

(d) The modification shall be done in accordance with Bombardier Alert Service Bulletin S.B. A8–34–117, Revision 'C', dated February 14, 1997. This incorporation by reference was approved previously by the Director of the Federal Register as of November 3, 1997 (62 FR 50861, September 29, 1997). Copies may be obtained from Bombardier, Inc., Bombardier Regional Aircraft Division, Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York; 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 Canadian airworthiness directive CF–97–01R2, dated August 13, 1997.

(e) This amendment becomes effective on September 11, 1998.

Issued in Renton, Washington, on July 31, 1998.

**Darrell M. Pederson,**

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

[FR Doc. 98–21097 Filed 8–6–98; 8:45 am]

BILLING CODE 4910–13–P

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 97–NM–128–AD; Amendment 39–10701; AD 98–16–24]**

**RIN 2120–AA64**

## Airworthiness Directives; British Aerospace Model BAe 146 and Model Avro 146–RJ Series Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD), applicable to all British Aerospace Model BAe 146 and certain Model Avro 146–RJ series airplanes, that requires a one-time inspection for ''drill marks'' and corrosion on the underside of the wing top skin, and corrective actions, 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 corrosion from developing on the underside of the top skin of the center wing, which could result in reduced structural integrity of the airplane.

**DATES:** Effective September 11, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 11, 1998.

**ADDRESSES:** The service information referenced in this AD may be obtained from AI(R) American Support, Inc., 13850 Mclearen Road, Herndon, Virginia 20171. 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 British Aerospace Model BAe 146 and certain Model Avro 146–RJ series airplanes was published in the **Federal Register** on June 3, 1998 (63 FR 30152). That action proposed to require a one-time inspection for ''drill marks'' and corrosion on the underside of the wing top skin, and corrective actions, if necessary.

## Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

## Conclusion

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 40 airplanes of U.S. registry will be affected by this AD, that it will take approximately 10 work hours per airplane to accomplish the required inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the inspection required by this AD on U.S. operators is estimated to be $24,000, or $600 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:

**98–16–24 British Aerospace Regional Aircraft (Formerly British Aerospace Regional Aircraft Limited, Avro International Aerospace Division; British Aerospace, PLC; British Aerospace Commercial Aircraft Limited):** Amendment 39–10701. Docket 97–NM–128–AD.

*Applicability:* All Model BAe 146 series airplanes; and Model Avro 146–RJ series airplanes, as listed in British Aerospace Service Bulletin SB.57–50, Revision 2, dated March 20, 1997; 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 corrosion from developing on the underside of the top skin of the center wing, which could result in reduced structural integrity of the airplane, accomplish the following:

(a) Within 2 years after the effective date of this AD, perform a one-time intrascopic inspection for ''drill marks'' and corrosion on the underside of the wing top skin, in accordance with British Aerospace Service Bulletin SB.57–50, Revision 2, dated March 20, 1997.

(1) If no ''drill mark'' or corrosion is detected, no further action is required by this AD.

(2) If any ''drill mark'' is detected, prior to further flight, apply protective treatment coating, in accordance with the service bulletin.

(3) If any corrosion is detected, prior to further flight, repair in accordance with a method approved by the Manager, International Branch, ANM–116, FAA, Transport Directorate; and apply protective treatment coating 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. 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.

(d) The inspection and application of protective treatment coating shall be done in accordance with British Aerospace Service Bulletin SB. 57–50, Revision 2, dated March 20, 1997, which contains the following list of effective pages:

| Page No. | Revision level shown on page | Date shown on page |
|---|---|---|
| 1, 2 ..... | 2 ..... | March 20, 1997. |
| 3–5 ..... | 1 ..... | December 11, 1996. |

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 AI(R) American Support, Inc., 13850 Mclearen Road, Herndon, Virginia 20171. 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 directive 004–12–96.

(e) This amendment becomes effective on September 11, 1998.

Issued in Renton, Washington, on July 31, 1998.

**Darrell M. Pederson,**

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

[FR Doc. 98–21105 Filed 8–6–98; 8:45 am]

BILLING CODE 4910–13–U

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 98–NM–146–AD; Amendment 39–10698; AD 98–16–21]**

**RIN 2120–AA64**

## Airworthiness Directives; Aerospatiale Model ATR42 and ATR72 Series Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD), applicable to certain Aerospatiale Model ATR42 and ATR72 series airplanes, that requires one-time inspections to verify the correct shape of the stiffeners for the upper engine cowl and to detect wear of the aft upper fittings of the rear engine mounts, and corrective actions, 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 wear (scratches or grooving) of the aft upper fittings of the rear engine mount, and consequent reduced structural integrity of the engine mounts.

**DATES:** Effective September 11, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 11, 1998.

**ADDRESSES:** The service information referenced in this AD may be obtained from Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, 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 certain Aerospatiale Model ATR42 and ATR72 series airplanes was published in the **Federal Register** on June 12, 1998 (63 FR 32152). That action proposed to require one-time inspections to verify the correct shape of the stiffeners for the upper engine cowl and to detect wear of the aft upper fittings of the rear engine mounts, and corrective actions, if necessary.

### Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

### Conclusion

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 152 airplanes of U.S. registry will be affected by this AD, that it will take approximately 15 work hours 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 $136,800, or $900 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:

**98–16–21 Aerospatiale:** Amendment 39–10698. Docket 98–NM–146–AD.

*Applicability:* Model ATR42 and Model ATR72 series airplanes, as listed in Avions de Transport Regional Service Bulletins ATR42–54–0019 (for Model ATR42 series airplanes) and ATR72–54–1011 (for Model ATR72 series airplanes), both dated March 9, 1998; 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 wear (scratches or grooving) of the aft upper fittings of the rear engine mount, and consequent reduced structural integrity of the engine mounts, accomplish the following:

(a) Within 10 months after the effective date of this AD, perform a one-time visual inspection of the stiffeners for the upper left and right engine cowls to ensure the stiffeners have the correct lower edge profile, in accordance with the Accomplishment Instructions of Avions de Transport Regional Service Bulletin ATR42–54–0019 or ATR72–54–1011, both dated March 9, 1998, as applicable.

(1) If the lower edge profile of the stiffener meets the specifications of the applicable service bulletin, no further action is required by this paragraph.

(2) If the lower edge profile of the stiffener does not meet the specifications of the applicable service bulletin, prior to further flight, modify or replace the stiffener with a new stiffener in accordance with the applicable service bulletin.

(b) Within 10 months after the effective date of this AD, perform a one-time detailed visual inspection for wear (scratches or grooving) of the aft upper fittings of the left- and right-hand rear engine mounts, in accordance with Avions de Transport Regional Service Bulletin ATR42–54–0019 (for Model ATR42 series airplanes) or ATR72–54–1011 (for Model ATR72 series airplanes), both dated March 9, 1998, as applicable.

(1) If no wear is detected, no further action is required by this paragraph.

(2) If any wear is detected that cannot be removed with a Type I or II blend-out as described in the applicable service bulletin, prior to further flight, repair in accordance with a method approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate.

(3) If any wear other than that specified in paragraph (b)(2) of this AD is detected, prior to further flight, repair in accordance with the Accomplishment Instructions of the applicable service bulletin.

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

(e) Except as provided by paragraph (b)(2) of this AD, the actions shall be done in accordance with Avions de Transport Regional Service Bulletin ATR42–54–0019, dated March 9, 1998, or Avions de Transport Regional Service Bulletin ATR72–54–1011, dated March 9, 1998, 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 Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, edex 03, 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 3:** The subject of this AD is addressed in French airworthiness directives 98–069–073(B) (for Model ATR42 series airplanes), dated February 11, 1998; and 98–071–035(B) (for Model ATR72 series airplanes), dated February 11, 1998, as revised by Erratum 98–071–35(B), dated February 25, 1998.

(f) This amendment becomes effective on September 11, 1998.

Issued in Renton, Washington, on July 31, 1998.

**Darrell M. Pederson,**

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

[FR Doc. 98–21102 Filed 8–6–98; 8:45 am]

BILLING CODE 4910–13–U

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 71

**[Airspace Docket No. 98–AEA–10]**

## Amendment to Class E Airspace; Dunkirk, NY

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

**ACTION:** Final rule.

**SUMMARY:** This action amends Class E airspace extending upward from 700 feet Above Ground Level (AGL) at Dunkirk, NY. The development of a Standard Instrument Approach Procedure (SIAP) based on the Global Positioning System (GPS) at Angola Airport, NY, has made this action necessary. This action is intended to provide adequate Class E airspace to contain instrument flight rules (IFR) operations for aircraft executing the GPS Runway (RWY) 1 SIAP to Angola Airport.

**EFFECTIVE DATE:** 0901 UTC, October 8, 1998.

**FOR FURTHER INFORMATION CONTACT:** Mr. Francis Jordan, Airspace Specialist, Airspace Branch, AEA–520, Air Traffic Division, Eastern Region, Federal Aviation Administration, Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430; telephone (718) 553–4521.

**SUPPLEMENTARY INFORMATION:**

### History

On June 4, 1998, a proposal to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to amend the Class E airspace at Dunkirk, NY, was published in the **Federal Register** (63 FR 30428). The development of the GPS RWY 1 SIAP for Angola Airport, NY, requires the amendment of the Class E airspace at Dunkirk, NY. The proposal was to amend controlled airspace extending upward from 700 feet AGL to contain IFR operations in controlled airspace during portions of the terminal operation and while transitioning between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments to the proposal were received. The rule is adopted as proposed.

The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas designations for airspace extending upward from 700 feet AGL are published in paragraph 6005 of FAA Order 7400.9E, dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

### The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) amends Class E airspace at Dunkirk, NY, to provide controlled airspace extending upward from 700 feet AGL for aircraft executing the GPS RWY 1 SIAP to Angola Airport.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1)

is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation it is certified that this rule will not have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

### List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

### Adoption of the Amendment

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

## PART 71—[AMENDED]

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

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

### § 71.1 [Amended]

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

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

* * * * *

**AEA NY E5 Dunkirk, NY [Revised]**

Chautauqua County/Dunkirk Airport, NY
(Lat. 42° 29′ 36″ N., long. 79° 16′ 19″ W.)
Angola Airport, NY
(Lat 42° 39′ 36″ N., long. 78° 59′ 28″ W.)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of Chautauqua County/Dunkirk Airport and within an 11.8-mile radius of the airport extending clockwise from a 022° to a 264° bearing from the airport and within a 6.3-mile radius of the Angola Airport and within 4 miles each side of the 179° bearing from the airport extending from the 6.3-mile radius to 10.5 miles south of the airport.

* * * * *

Issued in Jamaica, New York on July 29, 1998.

**Franklin D. Hatfield,**

*Manager, Air Traffic Division, Eastern Region.*

[FR Doc. 98–21180 Filed 8–6–98; 8:45 am]

BILLING CODE 4910–13–M

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 97

**[Amdt No. 1881; Docket No. 29293]**

**RIN 212–AH 65**

## 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 amendatory 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:** Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd. Oklahoma City, OK. 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK. 73125) telephone: (405) 954–4164.

**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 complete 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 (NFDC) 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 July 24, 1998.

**Richard O. Gordon,**

*Acting 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 part 97) 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 13 August 1998*

Fort Pierce, FL, St. Lucie County Intl, GPS RWY 9, Orig
Anderson, IN, Anderson Muni-Darlington Field, LOC RWY 30, Amdt 5A, CANCELLED
Gwinn, MI, Sawyer, NDB RWY 1, Orig
Gwinn, MI, Sawyer, NDB RWY 19, Orig
Gwinn, MI, Sawyer, ILS RWY 1, Orig
St Louis, MO, Spirit of St Louis, LOC RWY 26L, Amdt 4, CANCELLED
St Louis, MO, Spirit of St Louis, NDB OR GPS RWY 26L, Amdt 2
St Louis, MO, Spirit of St Louis, ILS RWY 26L, Orig

*. . . Effective 10 September 1998*

Oxnard, CA, Oxnard, VOR/DME OR GPS RWY 7, Orig, CANCELLED
Alexandria, LA, Alexandria Esler Regional, ILS RWY 26, Amdt 13
Kansas City, MO, Kansas City Intl, NDB RWY 19L, Orig
Portland, OR, Portland Intl, MLS RWY 28L, Orig, CANCELLED

*. . . Effective 8 October 1998*

Troy, AL, Troy Muni, RADAR–1, Amdt 7
Glode, AZ, San Carlos Apache, GPS RWY 27, Orig
Safford, AZ, Safford Muni, GPS RWY 12, Orig
Safford, AZ, Safford Muni, GPS RWY 30, Orig
Camarillo, CA, Camarillo, VOR RWY 26, Amdt 5
Merced, CA, Merced Muni/Macready Field, VOR RWY 30, Amdt 18
Merced, CA, Merced Muni/Macready Field, LOC BC RWY 12, Amdt 10
Merced, CA, Merced Muni/Macready Field, ILS RWY 30, Amdt 14
Cortez, CO, Cortez Muni, GPS RWY 3, Amdt 1
Cortez, CO, Cortez Muni, GPS RWY 21, Orig
Liberal, KS, Liberal Muni, VOR OR GPS RWY 3, Amdt 2
Liberal, KS, Liberal Muni, VOR/DME RWY 17, Amdt 3
Liberal, KS, Liberal Muni, VOR OR GPS RWY 35, Amdt 11
Liberal, KS, Liberal Muni, NDB RWY 35, Amdt 3
Liberal, KS, Liberal Muni, ILS RWY 35, Amdt 3
Natchitoches, LA, Natchitoches Regional, LOC RWY 34, Amdt 3
Fitchburg, MA, Fitchburg Muni, NDB–A, Amdt 3
Fitchburg, MA, Fitchburg Muni, NDB RWY 20, Amdt 4
West Plains, MO, West Plains Muni, VOR RWY 36, Orig
Livingston, MT, Mission Field, GPS RWY 22, Orig
Montauk, NY, Montauk, VOR OR GPS RWY 6, Amdt 3
Wharton, TX, Wharton Muni, VOR/DME OR GPS–A, Amdt 4
Wharton, TX, Wharton Muni, NDB RWY 14, Orig
Wharton, TX, Wharton Muni, NDB OR GPS RWY 14, Amdt 1, CANCELLED
Wharton, TX, Wharton Muni, NDB RWY 32, Orig
Wharton, TX, Wharton Muni, NDB OR GPS RWY 32, Amdt 1, CANCELLED
Walla Walla, WA, Walla Walla Regional, GPS RWY 2, Orig
Walla Walla, WA, Walla Walla Regional, GPS RWY 20, Orig

[FR Doc. 98–21179 Filed 8–6–98; 8:45 am]

BILLING CODE 4910–13–M

## DEPARTMENT OF COMMERCE

### Bureau of Export Administration

### 15 CFR Parts 738, 740, 742, 744, 746, 748, and 752

**[Docket No. 980619158–8158–01]**

**RIN 0694–AB35**

## Revisions to the Export Administration Regulations; Conforming Revisions to the Wassenaar Arrangement List of Dual-Use Items and Revisions to Antiterrorism Controls

**AGENCY:** Bureau of Export Administration, Commerce.

**ACTION:** Interim rule with request for comments.

**SUMMARY:** On January 15, 1998, the Bureau of Export Administration published an interim rule implementing the Wassenaar Arrangement List of Dual-Use Items. Implementation of the Wassenaar List resulted in a number of changes to the Commerce Control List (CCL). The major changes involved the removal of national security controls on certain items, while maintaining controls on these items for antiterrorism reasons. Consistent with this revision, various antiterrorism Export Control Classification Numbers (ECCNs) were enlarged to accommodate the items removed from national security controls. An easy-to-follow pattern was developed to track the movement of these items. Items formerly classified as a XX001 entry, now default into a xx991 entry. In addition, the January 15 rule moved items from one ECCN into another, or merged two or more ECCNs together. This was done to simplify the CCL and place together items that fall within the same general category. For example, ECCN 9A992 (off-highway tractors) was merged with ECCN 9A993 (on-highway tractors) to form part of a new ECCN 9A990 that also includes diesel engines.

This rule amends the Export Administration Regulations (EAR) by making the necessary conforming revisions throughout the text of the EAR, consistent with the January 15 revisions to the CCL.

**DATES:** Effective Date: This rule is effective August 7, 1998.

**COMMENT DATE:** Comments on this rule must be received on or before September 8, 1998.

**ADDRESSES:** Written comments should be sent to Patricia Muldonian, Regulatory Policy Division, Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044.

**FOR FURTHER INFORMATION CONTACT:** Patricia Muldonian, Regulatory Policy Division, Bureau of Export Administration, Telephone: (202) 482–2440.

**SUPPLEMENTARY INFORMATION:**

## Background

On January 15, 1998, the Bureau of Export Administration (BXA) published an interim rule (63 FR 2452) that made changes to the Commerce Control List (CCL) necessary to implement the Wassenaar Arrangement. All items removed from national security controls as a result of the Wassenaar List of Dual-Use Goods and Technologies continue to be controlled for antiterrorism reasons. Consistent with this revision, various antiterrorism Export Control Classification Numbers (ECCNs) were enlarged to accommodate the items removed from national security controls. In addition, in an effort to simplify and harmonize the antiterrorism controls on the CCL, the January 15 rule made the following renumbering revisions:

| Old ECCN | New ECCN | Description of old ECCN |
|---|---|---|
| 1A988 | 1A005 | Bullet proof and bullet resistant vests. |
| 1C993 | 1C990 | Fibrous and filamentary material not controlled by 1C010 or 1C210, for use in ''composite'' structures and with a specific modulus of $3.18 \times 10^6$ m or greater and a specific tensile strength of $7.62 \times 10^4$ m or greater. |
| 1C994 | 1C006.d | Fluorocarbon electronic cooling fluids. |
| 1E391 | 1E351 | Technology for the disposal of chemicals or microbiological materials controlled by 1C350, 1C351, 1C352, 1C353, or 1C354. |
| 2B985 | 0B986 | Equipment specially designed for manufacturing shotgun shells. |
| 2B992 | 2B996 | Manual dimensional inspection machines with two or more axes, and measurement uncertainty equal to or less (better) than (3 + L/300) micrometer in any axes (L measured in length in mm). |
| 2B994 | 2B997 | Robots not controlled by 2B007 or 2B207. |
| 2D993 | 2D991 | Software specially designed for the development, production, or use of equipment controlled by 2B991, 2B993 or 2B994. |
| 2E993 | 2E991 | Technology for the use of equipment controlled by 2B991, 2B992, 2B993, or 2B994. |
| 3A992 | 3A991 | Electronic devices and components not controlled by 3A001. |
| 3A993 | 3A992.a | Electronic test equipment, n.e.s. |
| 3A994 | 3A992.b/c | General purpose electronic equipment not controlled by 3A002. |
| 3D994 | 3D991 | Software specially designed for the development, production, or use of electronic devices or components controlled by 3A992, electronic test equipment controlled by 3A993, general purpose electronic equipment controlled by 3A994, or manufacturing and test equipment controlled by 3B991. |
| 3E994 | 3E991 | Technology for the development, production, and use of electronic devices controlled by 3A992. |
| 5A990 | 5A991.a | Any type of telecommunication equipment not controlled by 5A001.a. |
| 5A991 | 5A991.b | Transmission equipment, not controlled by 5A001. |
| 5A992 | 5A991.f | Mobile communication equipment, n.e.s. |
| 5A993 | 5A991.g | Radio relay communications equipment, n.e.s. |
| 5A994 | 5A991.c.1 | Data message switching equipment. |
| 5B994 | 5B991 | Telecommunications test equipment. |
| 5D990 | 5D991 | Software specially designed for the development, production and use of equipment controlled under 5A990 and 5A991. |
| 5D992 | 5D991 | Software specially designed or modified for the development, production, or use of mobile communications equipment. |
| 5D993 | 5D991 | Software specially designed or modified for the development, production, or use of radio relay communications equipment. |
| 5D994 | 5D991 | Software specially designed or modified for the development, production, or use of data (message) switching equipment. |
| 5E992 | 5E991 | Technology for the development, production, or use of mobile communications equipment. |
| 5E993 | 5E991 | Technology for the development, production, or use of radio relay communications equipment. |
| 5E994 | 5E991 | Technology for the development, production, or use of data (message) switching equipment. |
| 5A995 | 5A992 | Information security equipment. |
| 5D995 | 5D992 | Software n.e.s., specially designed or modified for the development, production, or use of information security or cryptologic equipment. |
| 5E995 | 5E991 | Technology n.e.s., for the development, production, or use of information security or cryptologic equipment. |
| 6A994 | 6A991 | Marine or terrestrial acoustic equipment. |
| 6A990 | 6A998 | Airborne radar equipment. |
| 6D990 | 6D991 | Software specially designed for the development, production, or use of equipment controlled by 6A990, 6A992 or 6A993. |
| 6D994 | 6D991 | Software specially designed for the development, production, or use of equipment controlled by 6A994. |
| 6E990 | 6E991 | Technology for the development, production, or use of equipment controlled by 6A990, 6A992 or 6A993. |
| 8A993 | 8A992.h | Self-contained under water breathing apparatus. |
| 8A994 | 8A992.f | Boats. |
| 8D993 | 8D992 | Software specially designed or modified for the development, production, or use of equipment controlled by 8A993 and 8A994. |
| 8E993 | 8E992 | Technology for the development, production, or use of items controlled by 8A993 and 8A994. |
| 9A990 | 9A991.e | Pressurized aircraft breathing equipment, n.e.s.; and specially designed parts therefor, n.e.s. |
| 9A992 | 9A990.b | Off-highway tractors. |
| 9A993 | 9A990.c | On-highway tractors. |
| 9A994 | 9A991.d | Aircraft parts and components. |

| Old ECCN | New ECCN | Description of old ECCN |
|---|---|---|
| 9B994 ..... | 9B990 ..... | Vibration test equipment. |

Although the Export Administration Act (EAA) expired on August 20, 1994, the President invoked the International Emergency Economic Powers Act and continued in effect the EAR, and, to the extent permitted by law, the provisions of the EAA in Executive Order 12924 of August 19, 1994, as extended by the President's notices of August 15, 1995 (60 FR 42767), August 14, 1996 (61 FR 42527) and August 13, 1997 (62 FR 43629).

**Rulemaking Requirements**

1. This interim rule has been determined to be not significant for purposes of E.O. 12866.

2. Notwithstanding any other provision of 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, subject to the requirements of the Paperwork Reduction Act (PRA), unless that collection of information displays a currently valid OMB Control Number. This rule involves a collection of information subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) This collection has been approved by the Office of Management and Budget under control number 0694–0088. Send comments regarding these burden estimates or any other aspect of these collections of information, including suggestions for reducing the burden, to OMB Desk Officer, New Executive Office Building, Washington, DC 20503.

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

4. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a military and foreign affairs function of the United States (Sec. 5 U.S.C. 553(a)(1)). Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this interim rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under 5 U.S.C. or by any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.* ) are not applicable.

However, because of the importance of the issues raised by these regulations, this rule is issued in interim form and comments will be considered in the development of final regulations. Accordingly, the Department encourages interested persons who wish to comment to do so at the earliest possible time to permit the fullest consideration of their views.

The period for submission of comments will close September 8, 1998. The Department will consider all comments received before the close of the comment period in developing final regulations. Comments received after the end of the comment period will be considered if possible, but their consideration cannot be assured. The Department will not accept public comments accompanied by a request that a part or all of the material be treated confidentially because of its business proprietary nature or for any other reason. The Department will return such comments and materials to the person submitting the comments and will not consider them in the development of final regulations. All public comments on these regulations will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, the Department requires comments in written form.

Oral comments must be followed by written memoranda, which will also be a matter of public record and will be available for public review and copying. Communications from agencies of the United States Government or foreign governments will not be made available for public inspection.

The public record concerning these regulations will be maintained in the Bureau of Export Administration Freedom of Information Records Inspection Facility, Room 4525, Department of Commerce, 14th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of the Code of Federal Regulations. Information about the inspection and copying of records at the facility may be obtained from Margaret Cornejo, Bureau of Export Administration Freedom of Information Officer, at the above address or by calling (202) 482–5653.

**List of Subjects**

*15 CFR Part 738*

Exports, Foreign trade.

*15 CFR Parts 740, 748, and 752*

Administrative practice and procedure, Exports, Foreign trade, Reporting and recordkeeping requirements.

*15 CFR Part 742*

Exports, Terrorism.

*15 CFR Part 744*

Exports, Foreign Trade, Reporting and recordkeeping requirements.

*15 CFR Part 746*

Embargoes, Exports, Foreign Trade, Reporting and recordkeeping requirements.

Accordingly, parts 738, 740, 742, 744, 746, 748, and 752 of the Export Administration Regulations (15 CFR parts 730–799) are amended as follows:

1–2. The authority citation for part 738 is revised to read as follows:

**Authority:** 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 10 U.S.C. 7420, 7430(e); 18 U.S.C. 2510 *et seq.*; 22 U.S.C. 287c, 3201 *et seq.*, 6004; 42 U.S.C. 2139a, 6212; 43 U.S.C. 1354; 46 U.S.C. app. 466c; 50 U.S.C. app. 5; Sec. 201, Pub. L. 104–58, 109 Stat. 557 (30 U.S.C. 185(s), 185(u)); E.O. 12924, 3 CFR, 1994 Comp., p. 917; E.O. 13026, 3 CFR, 1996 Comp., p. 228; Notice of August 13, 1997 (62 FR 43629, August 15, 1997).

3. The authority citation for part 740 is revised to read as follows:

**Authority:** 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 12924, 3 CFR, 1994 Comp., p. 917; E.O. 13020, 3 CFR, 1996 Comp. p. 219; E.O. 13026, 3 CFR, 1996 Comp., p. 228; Notice of August 13, 1997 (62 FR 43629, August 15, 1997).

4. The authority citation for part 742 is revised to read as follows:

**Authority:** 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 18 U.S.C. 2510 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 3 CFR, 1993 Comp., p. 608; E.O. 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; E.O. 12938, 3 CFR, 1994 Comp., p. 950; E.O. 13020, 3 CFR, 1996 Comp. p. 219; E.O. 13026, 3 CFR, 1996 Comp., p. 228; Notice of August 13, 1997 (62 FR 43629, August 15, 1997).

5. The authority citation for 15 CFR part 744 is revised to read as follows:

**Authority:** 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; E.O. 12938, 3 CFR, 1994 Comp., p. 950; E.O. 13026, 3 CFR, 1996 Comp., p. 228; Notice of August 13, 1997 (62 FR 43629, August 15, 1997).

6. The authority citation for 15 CFR part 746 continues to read as follows:

**Authority:** 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 287c, 6004; E.O. 12918, 59 FR 28205, 3 CFR, 1994 Comp., p. 899; E.O. 12924, 3 CFR, 1994 Comp., p. 917; Notice of August 13, 1997 (62 FR 43629, August 15, 1997).

7. The authority citation for 15 CFR part 748 is revised to read as follows:

**Authority:** 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 12924, 3 CFR, 1994 Comp., p. 917; E.O. 13026, 3 CFR, 1996 Comp., p. 228; Notice of August 13, 1997 (62 FR 43629, August 15, 1997).

8. The authority citation for 15 CFR part 752 is revised to read as follows:

**Authority:** 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 12924, 3 CFR, 1994 Comp., p. 917; E.O. 13020, 3 CFR, 1996 Comp. p. 219; Notice of August 13, 1997 (62 FR 43629, August 15, 1997).

## PART 738—[AMENDED]

9. Section 738.3 is amended by redesignating paragraphs (a)(2)(A) and (a)(2)(B) as paragraphs (a)(2)(i) and (a)(2)(ii), respectively, and by revising the heading of newly designated paragraph (a)(2)(ii) to read as follows:

### § 738.3 Commerce Country Chart structure.

(a) * * *

(2) * * *

(ii) ECCNs 0A986, 0A988, 0B986, 1A005, 2A994, 2D994, and 2E994.

* * *

* * * * *

## PART 740—[AMENDED]

10. Supplement No. 1 to § 740.11 is amended:

a. By revising paragraph (a)(3); and

b. By revising paragraph (b)(3), to read as follows:

### § 740.11 Governments and international organizations (GOV).

* * * * *

### Supplement No. 1 to § 740.11—Additional Restrictions on Use of License Exception GOV

(a) * * *

(3) Regional stability items controlled under Export Control Classification Numbers (ECCNs) 6A002, 6A003, 6E001, 6E002, 7D001, 7E001, 7E002, 7E101, 9A018, 9D018 and 9E018 as described in 742.6(a) of the EAR; or

* * * * *

(b) * * *

(3) Regional stability items controlled under Export Control Classification Numbers (ECCNs) 6A002, 6A003, 6E001, 6E002, 7D001, 7E001, 7E002, 7E101, 9A018, 9D018 and 9E018 as described in 742.6(a) of the EAR; or

* * * * *

11. Section 740.16 is amended:

a. By revising paragraph (b)(2); and

b. By revising paragraph (i), to read as follows:

### § 740.16 Additional permissive reexports (APR).

* * * * *

(b) * * *

(2) Commodities controlled for nuclear nonproliferation or missile technology reasons.

* * * * *

(i) Reexports to Sudan of items controlled by ECCNs 2A994; 3A992.a; 5A991.f; 5A992; 6A991; 6A998; 7A994; 8A992.d, .e, .f, and .g; 9A990.a and .b; and 9A991.d and .e. In addition, items in these ECCNs are not counted as controlled U.S. content for purposes of determining license requirements for U.S. parts, components, and materials incorporated in foreign-made products. However, the export from the United States to any destination with knowledge that they will be reexported directly or indirectly, in whole or in part to Sudan is prohibited without a license.

* * * * *

## PART 742—[AMENDED]

### § 742.2 [Amended]

12. In § 742.2, paragraphs (a)(1)(ii) and (a)(2)(iii) are amended by revising the phrase ''(ECCNs 1E001 and 1E391)'' to read ''(ECCNs 1E001 and 1E351)''.

### § 742.7 [Amended]

13. Section 742.7(a)(1) is amended by revising the phrase ''6E001 (for police-model infrared viewers only), and 9A980'' to read ''6E001 (for police-model infrared viewers only), 6E002 (for police-model infrared viewers only), and 9A980''.

14. Section 742.8 is amended by revising paragraph (a)(2) to read as follows:

### § 742.8 Anti-terrorism: Iran.

(a) * * *

(2) If AT column 1 or AT column 2 of the Commerce Country Chart (Supplement No. 1 to part 738 of the EAR) is indicated in the appropriate ECCN, a license is required for *reexport* to Iran for anti-terrorism purposes, *except* for ECCNs 2A994; 3A992.a; 5A991.f; 5A992; 6A991; 6A998; 7A994; 8A992.d, .e, .f, and .g; 9A990.a and .b; and 9A991.d and .e. In addition, items in these ECCNs are not counted as controlled U.S. content for the purpose of determining license requirements for U.S. parts, components or materials incorporated into foreign made products. However, the export from the United States to any destination with knowledge that they will be reexported directly or indirectly, in whole or in part to Iran is prohibited without a license. See paragraph (a)(5) of this section for controls maintained by the Department of the Treasury.

* * * * *

### § 742.9 [Amended]

15. Section 742.9(b)(1)(iv) is amended by revising the phrase ''except for ECCNs 6A990, 7A994, and 9A994,'' to read ''except for ECCNs 6A998, 7A994, and 9A991.d,''.

16. Section 742.10 is amended by revising paragraph (a)(2) to read as follows:

### § 742.10 Anti-terrorism: Sudan.

(a) * * *

(2) If AT column 1 or AT column 2 of the Commerce Country Chart (Supplement No. 1 to part 738 of the EAR) is indicated in the appropriate ECCN, a license is required for *reexport* to Sudan for anti-terrorism purposes, *except* for ECCNs 2A994; 3A992.a; 5A991.f; 5A992; 6A991; 6A998; 7A994; 8A992.d, .e, .f, and .g; 9A990.a and .b; and 9A991.d and .e. In addition, items in these ECCNs are not counted as controlled U.S. content for the purpose of determining license requirements for U.S. parts, components or materials incorporated into foreign made products. However, the export from the United States to any destination with knowledge that they will be reexported directly or indirectly, in whole or in part to Sudan is prohibited without a license.

* * * * *

### Supplement No. 2 to Part 742 [Amended]

17. Supplement No. 2 to part 742 is amended:

a. By revising the phrase ''controlled by 9A994:'' to read ''controlled by ECCN 9A991.d:'' in paragraph (c)(6)(i)(C);

b. By revising the phrase ''ECCNs 5A001.c and 5A994'' to read ''ECCNs 5A001.c and 5A991.c.1'' in the introductory text of paragraph (c)(29); and

c. By revising the phrase ''*described in ECCN 1C994*'' to read ''*described in ECCN 1C006.d*'' in the heading of paragraph (c)(33).

## PART 744—[AMENDED]

18. Section 744.8 is amended by revising paragraph (b) to read as follows:

### § 744.8 Restrictions on certain exports to all countries for Libyan aircraft.

* * * * *

(b) *Scope of products subject to end-use prohibition for Libyan aircraft.* The general end-use prohibition in paragraph (a) of this section applies to items controlled by ECCNs 6A008, 6A108, 6A998, 7A001, 7A002, 7A003, 7A004, 7A006, 7A101, 7A102, 7A103, 7A104, 7A994, 9A001, 9A003, 9A018.a, 9A101, and 9A991.

* * * * *

## PART 746—[AMENDED]

### § 746.4 [Amended]

19. Section 746.4(c)(6) is amended by revising the phrase ''ECCN 9A992'' to read ''ECCN 9A990.b''.

20. Section 746.7 is amended by revising paragraph (a)(2)(ii) to read as follows:

### § 746.7 Iran.

* * * * *

(a) * * *

(2) * * *

(ii) To reexport to Iran any of the items identified in paragraph (a)(2)(i) of this section, except for ECCNs 2A994; 3A992.a; 5A991.f; 5A992; 6A991; 6A998; 7A994; 8A992.d, .e, .f, and .g; 9A990.a and .b; and 9A991.d and .e. However, the export of these items from the United States to any destination with knowledge that they will be reexported, in whole or in part, to Iran, is prohibited without a license; or

* * * * *

21. Section 746.8 is amended by revising paragraph (b)(1)(ii) to read as follows:

### § 746.8 Rwanda.

* * * * *

(b) * * *

(1) * * *

(ii) Items described by any ECCN ending in ''018'', and items described by ECCNs 0A982; 0A984; 0A986; 0A988; 0B986; 1A005; 5A980; 6A002.a.1, a.2, a.3, and .c; 6A003.b.3 and b.4; 6E001; 6E002; and 9A991.a.

* * * * *

## PART 748—[AMENDED]

22. Supplement No. 2 to part 748 is amended by revising paragraphs (h)(1)(i)(G) and (h)(1)(ii)(H) to read as follows:

### Supplement No. 2 to Part 748—Unique License Application Requirements

* * * * *

(h) * * *

(1) * * *

(i) * * *

(G) Description of capabilities related to ''real time processing'' and receiving computer aided-design;

* * * * *

(ii) * * *

(H) Slide motion test results.

* * * * *

## PART 752—[AMENDED]

### § 752.3 [Amended]

23. Section 752.3(a)(2) is amended by revising the phrase ''1E001, 1E350, 1E391, 2B352,'' to read ''1E001, 1E350, 1E351, 2B352,''.

Dated: July 30, 1998.

**R. Roger Majak,**

*Assistant Secretary for Export Administration.*

[FR Doc. 98–21060 Filed 8–6–98; 8:45 am]

BILLING CODE 3510–33–P

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## SECURITIES AND EXCHANGE COMMISSION

## 17 CFR Part 240 and 249

**[Release No. 34–40163A; File No. S7–8–98]**

**RIN 3235–AH42**

## Year 2000 Readiness Reports To Be Made by Certain Transfer Agents Correction

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Correction to final regulation.

**SUMMARY:** This document contains a correction to final regulation (Rule 17Ad–18), which was published Monday, July 13, 1998 (63 FR 37688). Rule 17Ad–18 requires certain transfer agents to file with the Commission two reports regarding their Year 2000 preparations.

**EFFECTIVE DATE:** The correction becomes effective August 7, 1998.

**FOR FURTHER INFORMATION CONTACT:** Jeffrey Mooney, Special Counsel, 202/942–4174, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, NW, Mail Stop 10–1, Washington, DC 20549.

**SUPPLEMENTARY INFORMATION:**

### Background

New Rule 17Ad–18 requires certain transfer agents to file two reports regarding their Year 2000 preparations with the Commission on new Form TA–Y2K. The reports will increase transfer agent awareness of the specific steps they should be taking to prepare for the Year 2000; help coordinate industry testing and contingency planning; supplement the Commission's examination module for Year 2000 issues and identify potential Year 2000 compliance problems; and provide information regarding the securities industry's preparedness for the Year 2000.

### Need for Correction

As published, Rule 17Ad–18 contains an error that may prove to be misleading and that needs to be corrected.

### Correction of Publication

Accordingly, the publication on July 13, 1998, of Rule 17Ad–18, which was the subject of FR Doc. 98–18296, is corrected as follows:

### Appendix A—(Corrected)

Appendix A. On page 37697, the first sentence of the first paragraph under the heading Part II is corrected by inserting the word ''not'' between the words ''are'' and ''eligible.''

Dated: August 3, 1998.

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 98–21106 Filed 8–6–98; 8:45 am]

BILLING CODE 8010–01–P

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

## Food and Drug Administration

## 21 CFR Part 806

**[Docket No. 98N–0439]**

## Medical Devices; Reports of Corrections and Removals

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

**ACTION:** Direct final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending its regulations that govern reports of corrections and removals of medical devices to eliminate the requirement for distributors to make such reports. The amendments are being made to implement provisions of the Federal Food, Drug, and Cosmetic Act (the act),

as amended by the Food and Drug Administration Modernization Act of 1997 (FDAMA). FDA is publishing these amendments in accordance with its direct final rule procedures. Elsewhere in this issue of the **Federal Register**, FDA is publishing a companion proposed rule under FDA's usual procedures for notice and comment to provide a procedural framework to finalize the rule in the event the agency receives any significant adverse comment and withdraws the direct final rule.

**DATES:** The regulation is effective December 21, 1998. Submit written comments on or before October 21, 1998. Submit written comments on the information collection provisions on or before October 6, 1998. If FDA receives no significant adverse comment within the specified comment period, the agency intends to publish a document confirming the effective date of the final rule in the **Federal Register** within 30 days after the comment period on this direct final rule ends.

**ADDRESSES:** Submit written comments on the direct final rule to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

**FOR FURTHER INFORMATION CONTACT:** Rosa M. Gilmore, Center for Devices and Radiological Health (HFZ–215), Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20857, 301–827–2970.

**SUPPLEMENTARY INFORMATION:**

## I. Background

### *A. Changes Required by FDAMA*

FDAMA amended section 519(f) of the act (21 U.S.C. 360i(f)) to eliminate the requirement that distributors report corrections and removals. Section 519(f)(1) of the act previously required FDA to require device manufacturers, distributors, and importers to report promptly to FDA any correction or removal of a device undertaken: (1) To reduce a risk to health posed by the device; or (2) to remedy a violation of the act caused by a device which may present a risk to health. Section 519(f)(1) of the act also had required that manufacturers, distributors, and importers keep records of those corrections and removals that are not required to be reported to FDA. In accordance with the changes required by FDAMA, the reporting and recordkeeping requirements relating to corrections and removals have been eliminated for distributors. The requirements of the statute and FDA's implementing regulations remain unchanged for manufacturers and importers. In addition, FDAMA did not change the remaining provisions of 519(f) of the act. Section 519(f)(2) of the act provides that no report of a correction or removal action under section 519(f)(1) of the act may be required if a report of the correction or removal is required and has been submitted to FDA under section 519(a), which prescribes rules for reporting and keeping records of certain significant device-related events. Section 519(f)(3) of the act states that the terms ''correction'' and ''removal'' do not include routine servicing.

### *B. History of Part 806*

In the **Federal Register** of May 17, 1997 (62 FR 27183), FDA issued a final rule implementing the reports of corrections and removals provisions of the Safe Medical Devices Act of 1990 (Pub. L. 101–629), which required device manufacturers, distributors, and importers to report promptly to FDA any corrections or removals of a device undertaken to reduce a risk to health posed by the device or to remedy a violation of the act caused by the device which may present a risk to health. These regulations were codified at part 806 (21 CFR part 806).

In the **Federal Register** of December 24, 1997 (63 FR 67274), FDA announced that it was staying the effective date of the information collection requirements of part 806 because the information collection requirements in the final rule had not yet received approval from the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (the PRA). Following OMB's approval of the collection of information provisions for reports of corrections and removals (see the **Federal Register** February 17, 1998 (63 FR 7811)), FDA published a final rule in the **Federal Register** of April 16, 1998 (63 FR 18836) lifting the stay of effective date and the information collection requirements became effective May 18, 1998.

On November 21, 1997, the President signed FDAMA into law (Pub. L. 105–115). Section 213 of FDAMA amended section 519(f) of the act by eliminating ''distributors'' from the reporting requirements of the reports of corrections and removals provisions of the act. FDAMA did not change the obligations of device manufacturers and importers, who continue to be required to comply with the existing reporting and recordkeeping provisions of the act for corrections and removals.

## II. Changes to Part 806—Medical Devices; Reports of Corrections and Removals

Section 519(f)(1) of the act, as amended by section 213 of FDAMA, no longer requires ''distributors'' to report corrections and removals of medical devices. Accordingly, the following changes are being made to part 806 to implement the FDAMA provision:

1. Section 806.1 has been amended in paragraphs (a) and (b)(1) by changing the words ''manufacturers and distributors, including importers,'' to ''manufacturers and importers.''
2. Section 806.2(f) has been amended by eliminating the definition of ''distributor'' that included a person who imports devices into the United States, and replacing that definition of distributor with a separate definition of ''importer.'' For the purposes of this part, ''importer'' means any person who imports a device into the United States.
3. Section 806.10 has been revised in paragraphs (a), (b), (c), (c)(2), (c)(4), (d), and (e) to remove the word ''distributor'' each time it appears.
4. Section 806.20 has been amended in paragraphs (a) and (c) to remove the words ''importer, or distributor'' each time they appear and replace them with ''or importer.''
5. Section 806.30 is amended to remove the words ''importer, or distributor'' each time they appear and replace them with ''or importer.''

## III. Rulemaking Action

In the **Federal Register** of November 21, 1997 (62 FR 62466), FDA described when and how it will employ direct final rulemaking. FDA believes that this rule is appropriate for direct final rulemaking because FDA views this rule as making noncontroversial amendments to an existing regulation, incorporating amendments to section 519(f) of the act made by FDAMA, and FDA anticipates no significant adverse comment. Consistent with FDA's procedures on direct final rulemaking, FDA is publishing elsewhere in this issue of the **Federal Register** a companion proposed rule to amend 21 CFR part 806. The companion proposed rule is substantively identical to the direct final rule. The companion proposed rule provides a procedural framework within which the rule may be finalized in the event the direct final rule is withdrawn because of any significant adverse comment. The comment period for the direct final rule runs concurrently with the comment period for the companion proposed rule. Any comments received under the companion proposed rule will be

considered as comments regarding the direct final rule.

FDA is providing a comment period on the direct final rule of 75 days after August 7, 1998. If the agency receives any significant adverse comment, FDA intends to withdraw this final rule by publication of a document in the **Federal Register** within 30 days after the comment period ends. A significant adverse comment is defined as a comment that explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without change. In determining whether a significant adverse comment is sufficient to terminate a direct final rulemaking, FDA will consider whether the comment raises an issue serious enough to warrant a substantive response in a notice-and-comment process. Comments that are frivolous, insubstantial, or outside the scope of the rule will not be considered significant or adverse under this procedure. For example, a comment requesting that device manufacturers report corrections and removals under part 806 when a report is required and has already been submitted under 21 CFR part 803 will not be considered a significant adverse comment because it is outside the scope of the rule. In addition, if a significant adverse comment applies to part of a rule and that part can be severed from the remainder of the rule, FDA may adopt as final those parts of the rule that are not the subject of a significant adverse comment.

If FDA withdraws the direct final rule, all comments received will be considered under the companion proposed rule in developing a final rule using the agency's usual notice-and-comment procedures under the Administrative Procedure Act (5 U.S.C. 552 *et seq.*). If FDA receives no significant adverse comment during the specified comment period, FDA intends to publish a confirmation document in the **Federal Register** within 30 days after the comment period ends confirming that the direct final rule will go into effect on December 21, 1998.

## IV. Environmental Impact

The agency has determined under 21 CFR 25.30(h) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

## V. Analysis of Impacts

FDA has examined the impact of this direct final rule under Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 601–612) (as amended by subtitle D of the Small Business Regulatory Fairness Act of 1996 (Pub. L. 104–121)), and the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). Executive Order 12866 directs agencies to assess all costs of available regulatory alternatives and, when regulatory action is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The agency believes that this direct final rule is consistent with the regulatory philosophy and principles identified in the Executive Order. In addition, this direct final rule is not a significant regulatory action as defined by the Executive Order and so is not subject to review under the Executive Order.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. The rule eliminates the reporting requirements for ''distributors,'' as mandated by FDAMA, thereby reducing regulatory burdens. The agency certifies that this direct final rule will not have a significant economic impact on a substantial number of small entities. This direct final rule also does not trigger the requirement for a written statement under section 202(a) of the Unfunded Mandates Reform Act because it does not impose a mandate that results in an expenditure of $100 million or more by State, local or tribal governments in the aggregate, or by the private sector, in any 1 year.

## VI. Paperwork Reduction Act of 1995

The direct final rule contains information collection provisions that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The title, description, and respondent description of the information collection provisions are shown below with an estimate of the annual reporting and recordkeeping burden. Included in the estimate is the time for reviewing the instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing each collection of information.

FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA'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 respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

*Title*: Medical Devices; Reports of Corrections and Removals.

*Description*: FDA is issuing this rule to amend the reporting and recordkeeping requirements for corrections and removals under part 806 to eliminate those requirements for distributors of medical devices. This amendment implements changes made by FDAMA to section 519(f) of the act. FDAMA did not amend section 519(f) with respect to manufacturers and importers. Manufacturers and importers continue to be subject to the requirements of part 806.

*Description of Respondents*: Business or other for profit organizations.

FDA estimates the burden for this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

| 21 CFR Section | No. of Respondents | Annual Frequency per Response | Total Annual Responses | Hours per Response | Total Hours |
|---|---|---|---|---|---|
| 806.10 | 880 | 1 | 880 | 10 | 8,800 |

[1] There are no operating and maintenance costs or capital costs associated with this information collection.

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]

| 21 CFR Section | No. of Respondents | Annual Frequency per Response | Total Annual Response | Hours per Response | Total Hours |
|---|---|---|---|---|---|
| 806.20 | 440 | 1 | 440 | 10 | 4,400 |

[1] There are no operating and maintenance costs or capital costs associated with this information collection.

The information collection requirements in part 806 prior to this direct final rule have been approved by OMB and assigned control number 0910–0359. When preparing the earlier package for approval of the information collection requirements in part 806, FDA reviewed the reports of corrections and removals submitted in the previous 3 years under 21 CFR part 7 (the agency's recall provisions). During that period of time, no reports of corrections or removals were submitted by distributors. For that reason, FDA did not include distributors among the respondents estimated in the collection burden for the requirements previously approved by OMB. Because distributors were not included in that earlier estimate and because FDAMA now has eliminated requirements for distributor reporting, FDA has determined that estimates of the reporting burden for §§ 806.10 and 806.20 should remain the same.

As provided in 5 CFR 1320.5(c)(1), collections of information in a direct final rule are subject to the procedures set forth in 5 CFR 1320.10. Interested persons and organizations may submit comments on the information collection requirements of this direct final rule by October 6, 1998 to the Dockets Management Branch (address above).

At the close of the 60-day comment period, FDA will review the comments received, revise the information collection provisions as necessary, and submit these provisions to OMB for review. FDA will publish a document in the **Federal Register** when the information collection provisions are submitted to OMB, and an opportunity for public comment to OMB will be provided at that time. Prior to the effective date of the direct final rule, FDA will publish a document in the **Federal Register** of OMB's decision to approve, modify, or disapprove the information collection provisions. 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.

## VII. Comments

Interested persons may on or before October 21, 1998, submit written comments regarding this rule to the Dockets Management Branch (address above). This comment period runs concurrently with the comment period for the companion proposed rule. 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 the brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. All comments received will be considered comments regarding the proposed rule and this direct final rule. In the event the direct final rule is withdrawn, all comments received regarding the companion proposed rule and the direct final rule will be considered comments on the proposed rule.

## List of Subjects in 21 CFR Part 806

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

Therefore, under the Federal Food, Drug, and Cosmetic Act, and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 806 is amended as follows:

1. The part heading for part 806 is revised to read as follows:

## PART 806—MEDICAL DEVICES; REPORTS OF CORRECTIONS AND REMOVALS

2. The authority citation for 21 CFR part 806 continues to read as follows:

**Authority:** 21 U.S.C. 352, 360, 360i, 360j, 371, 374.

3. Section 806.1 is amended by revising paragraphs (a) and (b)(1) to read as follows:

### § 806.1 Scope.

(a) This part implements the provisions of section 519(f) of the Federal Food, Drug, and Cosmetic Act (the act) requiring device manufacturers and importers to report promptly to the Food and Drug Administration (FDA) certain actions concerning device corrections and removals, and to maintain records of all corrections and removals regardless of whether such corrections and removals are required to be reported to FDA.

(b) * * *

(1) Actions taken by device manufacturers or importers to improve the performance or quality of a device but that do not reduce a risk to health posed by the device or remedy a violation of the act caused by the device.

* * * * *

4. Section 806.2 is amended by revising paragraph (f) to read as follows:

### § 806.2 Definitions.

* * * * *

(f) ''Importer'' means, for the purposes of this part, any person who imports a device into the United States.

* * * * *

5. Section 806.10 is amended by revising paragraphs (a) and (b), the introductory text of paragraph (c), paragraph (c)(2), and the last sentence of paragraph (c)(4); and in paragraphs (d) and (e) by removing the word '', distributor,'' each time it appears to read as follows:

### § 806.10 Reports of corrections and removals.

(a) Each device manufacturer or importer shall submit a written report to FDA of any correction or removal of a device initiated by such manufacturer or importer if the correction or removal was initiated:

(1) To reduce a risk to health posed by the device; or

(2) To remedy a violation of the act caused by the device which may present a risk to health unless the information has already been provided as set forth in paragraph (f) of this section or the corrective or removal action is exempt from the reporting requirements under § 806.1(b).

(b) The manufacturer or importer shall submit any report required by paragraph (a) of this section within 10-working days of initiating such correction or removal.

(c) The manufacturer or importer shall include the following information in the report:

* * * * *

(2) The name, address, and telephone number of the manufacturer or importer,

and the name, title, address, and telephone number of the manufacturer or importer representative responsible for conducting the device correction or removal.

* * * * *

(4) * * * A manufacturer or importer that does not have an FDA establishment registration number shall indicate in the report whether it has ever registered with FDA.

* * * * *

6. Section 806.20 is amended by revising paragraphs (a) and (c) to read as follows:

**§ 806.20 Records of corrections and removals not required to be reported.**

(a) Each device manufacturer or importer who initiates a correction or removal of a device that is not required to be reported to FDA under § 806.10 shall keep a record of such correction or removal.

* * * * *

(c) The manufacturer or importer shall retain records required under this section for a period of 2 years beyond the expected life of the device, even if the manufacturer or importer has ceased to manufacture or import the device. Records required to be maintained under paragraph (b) of this section must be transferred to the new manufacturer or importer of the device and maintained for the required period of time.

7. Section 806.30 is revised to read as follows:

**§ 806.30 FDA access to records.**

Each device manufacturer or importer required under this part to maintain records and every person who is in charge or custody of such records shall, upon request of an officer or employee designated by FDA and under section 704(e) of the act, permit such officer or employee at all reasonable times to have access to, and to copy and verify, such records and reports.

Dated: July 9, 1998.

**William B. Schultz,**

*Deputy Commissioner for Policy.*

[FR Doc. 98–21091 Filed 8–6–98; 8:45 am]

BILLING CODE 4160–01–F

## UNITED STATES INFORMATION AGENCY

## 22 CFR Part 514

## Exchange Visitor Program

**AGENCY:** United States Information Agency.

**ACTION:** Statement of Policy.

**SUMMARY:** The Agency hereby announces its policy regarding requests for waiver of the two-year home country physical presence requirement set forth in Section 1182(e) of the Immigration and Nationality Act based upon the applicant's assertion that fulfillment of such requirement is not possible due to the loss of home country citizenship.

**EFFECTIVE DATE:** This policy statement is effective August 7, 1998.

**FOR FURTHER INFORMATION CONTACT:** Stanley S. Colvin, Assistant General Counsel, United States Information Agency, 301 4th Street, SW, Washington, DC 20547; telephone, (202) 619–6531.

**SUPPLEMENTARY INFORMATION:** The Director of the United States Information Agency is required by Section 1182(e) of the Immigration and Nationality Act to make recommendations to the Attorney General regarding the grant or denial of the two-year home country physical presence requirement imposed upon certain aliens who have entered the United States on a J visa or subsequently acquired such nonimmigrant status. Aliens who have received government funds, pursued graduate medical education or training, or who have participated in an activity involving skills identified of interest to the government of his or her home country are subject to the two-year home country physical presence requirement, viz., ''until it is established that such person has resided and been physically present in the country of his nationality or his last residence for an aggregate of at least two years following departure from the United States.'' If subject, an alien must fulfill this requirement or have it waived before he or she is eligible to adjust to H, L, or legal permanent resident status.

Recommendations regarding the grant or denial of a waiver request are based upon a review of the unique program, policy, and foreign relations aspects presented by each individual request. Recently, the Agency has been approached and requested to recognize a theory that certain aliens subject to the return home requirement should be granted a waiver because their home country has revoked, by operation of law, their citizenship due to the acquisition of citizenship or legal permanent residence in another country. This theory suggests that the section 1182(e) requirement should be waived because the loss of citizenship has made it impossible for the alien to fulfill this requirement. Having reviewed this matter at length, the Agency cannot adopt this theory as a matter of policy and will not recommend the grant of a waiver based solely upon the loss of home country citizenship. In many cases, other means of fulfillment, such as the utilization of a nonimmigrant visa for entry into the home country are available.

The Agency will review, on a case by case basis, those extraordinarily few instances where fulfillment of the Section 1182(e) requirement is impossible due to facts totally beyond the control of the waiver applicant and which were not the predictable consequences of action on the part of the applicant. Compelling and probative evidence of such impossibility of performance, furnished by the alien, is necessarily a prerequisite to Agency review. Such evidence may be, for example, proof of denial of a request for a nonimmigrant visa from the home country or denial of a request to restore home country citizenship.

### List of Subjects in 22 CFR Part 514

Cultural exchange programs.

Dated: July 30, 1998.

**Les Jin,**

*General Counsel.*

[FR Doc. 98–21137 Filed 8–6–98; 8:45 am]

BILLING CODE 8230–01–M

## DEPARTMENT OF TRANSPORTATION

## Coast Guard

## 33 CFR Part 165

**[CGD01–98–102]**

**RIN 2115–AA97**

## Safety Zone: Staten Island Fireworks, New York Harbor, Lower Bay

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for the Staten Island fireworks programs located in New York Harbor, Lower Bay. This action is necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in a portion of Lower Bay, New York Harbor.

**DATES:** This rule is effective July 21, 1998 through September 13, 1998. Compliance is required from 8:45 p.m. until 10:15 p.m. on the following dates: July 21, 1998; August 4, 1998; August 11, 1998; August 25, 1998; and September 12, 1998. If inclement weather causes cancellation of the fireworks display on September 12,

1998, then compliance is also required from 8:45 p.m. until 10:15 p.m. on September 13, 1998.

**ADDRESSES:** Documents as indicated in this preamble are available for inspection or copying at Coast Guard Activities New York, 212 Coast Guard Drive, room 205, Staten Island, New York 10305, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (718) 354–4195.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant (Junior Grade) A. Kenneally, Waterways Oversight Branch, Coast Guard Activities New York, at (718) 354–4195.

**SUPPLEMENTARY INFORMATION:**

## Regulatory History

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) was not published for this regulation. Good cause exists for not publishing an NPRM and for making this regulation effective less than 30 days after **Federal Register** publication. Due to the date this application was received, there was insufficient time to draft and publish an NPRM. Any delay encountered in this regulation's effective date would be contrary to public interest since immediate action is needed to close a portion of the waterway and protect the maritime public from the hazards associated with these fireworks displays.

## Background and Purpose

The Borough of Staten Island has submitted an Application for Approval of Marine Event to hold five fireworks programs on the waters of New York Harbor, Lower Bay. This regulation establishes five safety zones in all waters of New York Harbor, Lower Bay within a 275 yards radius of a fireworks barge located in approximate position 40°35′11″N 074°03′42″W (NAD 1983), approximately 350 yards east of South Beach, Staten Island, New York. The safety zones will be enforced from 8:45 p.m. until 10:15 p.m. for the following five fireworks displays: Tuesday, July 21, 1998; Tuesday, August 4, 1998; Tuesday, August 11, 1998; Tuesday, August 25, 1998; and Saturday, September 12, 1998, with a rain date of Sunday, September 13, 1998, at the same time and place. The safety zones prevent vessels from transiting a portion of New York Harbor, Lower Bay and are needed to protect boaters from the hazards associated with fireworks launched from a barge in the area. Marine traffic will still be able to transit through New York Harbor, Lower Bay during the events. Public notifications will be made prior to the events via the Local Notice to Mariners and marine information broadcasts.

## Regulatory Evaluation

This final rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. It has not been reviewed by the Office of Management and Budget under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this final rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This finding is based on the limited marine traffic in the area, the zones will not interfere with any shipping channels in the Port of New York/New Jersey, recreational traffic will still be able to transit the area in the vicinity of the display, the minimal time that vessels will be restricted from the zones, and advance notifications which will be made.

## Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considered whether this rule will have a significant economic impact on a substantial number of small entities. ''Small entities'' include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

For reasons discussed in the Regulatory Evaluation above, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this final rule will not have a significant economic impact on a substantial number of small entities.

## Collection of Information

This final rule does not provide for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq*).

## Federalism

The Coast Guard has analyzed this final rule under the principles and criteria contained in Executive Order 12612 and has determined that this final rule does not have sufficient implications for federalism to warrant the preparation of a Federalism Assessment.

## Environment

The Coast Guard has considered the environmental impact of this final rule and concluded that under Figure 2–1, paragraph 34(g), of Commandant Instruction M16475.1C, this final rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under **ADDRESSES**.

## List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

## Regulation

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Part 165 as follows:

## PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

2. Add temporary 165.T01–102 to read as follows:

### Section 165.T01–102 Safety Zone: Staten Island Fireworks, New York Harbor, Lower Bay.

(a) *Location*. The following area is a safety zone: all waters of New York Harbor, Lower Bay within a 275 yard radius of the fireworks barge in approximate position 40°35′11″N 074°03′42″W (NAD 1983), approximately 350 yards east of South Beach, Staten Island, New York.

(b) *Effective period*. This safety zone is effective from July 21, 1998 through September 13, 1998. Compliance is required from 8:45 p.m. until 10:15 p.m. on the following dates: July 21, 1998; August 4, 1998; August 11, 1998; August 25, 1998; and September 12, 1998. If inclement weather causes cancellation of the fireworks display on September 12, 1998, then compliance is also required from 8:45 p.m. until 10:15 p.m. on September 13, 1998.

(c) *Regulations*.

(1) The general regulations contained in 33 C.F.R. 165.23 apply.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on scene patrol personnel. U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard vessel via siren, radio, flashing light, or

other means, the operator of a vessel shall proceed as directed.

Dated: July 17, 1998.

**R.E. Bennis,**

*Captain, U.S. Coast Guard,*

*Captain of the Port, New York.*

[FR Doc. 98–21187 Filed 8–6–98; 8:45 am]

BILLING CODE 4910–15–M

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 62

**[OH116–1a; FRL–6134–5]**

## Approval and Promulgation of State Plans for Designated Facilities and Pollutants; Ohio; Control of Landfill Gas Emissions From Existing Municipal Solid Waste Landfills

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

**ACTION:** Direct final rule.

**SUMMARY:** The USEPA is approving the Ohio State Plan submittal for implementing the Municipal Solid Waste (MSW) Landfill Emission Guidelines. The State's plan submittal was made pursuant to requirements found in the Clean Air Act (CAA). The State's plan was submitted to USEPA on March 30, 1998, in accordance with the requirements for adoption and submittal of State plans for designated facilities in 40 CFR part 60, subpart B. It establishes performance standards for existing MSW landfills and provides for the implementation and enforcement of those standards. The USEPA finds that Ohio's Plan for existing MSW landfills adequately addresses all of the Federal requirements applicable to such plans. In the proposed rules section of this **Federal Register**, the USEPA is proposing approval of, and soliciting comments on, this approval. If adverse comments are received on this action, the USEPA will withdraw this final rule and address the comments received in response to this action in a final rule on the related proposed rule, which is being published in the proposed rules section of this **Federal Register**. A second public comment period will not be held. Parties interested in commenting on this action should do so at this time. This approval makes the State's rule federally enforceable.

**DATES:** The ''direct final'' is effective on October 6, 1998, unless USEPA receives adverse or critical written comments by September 8, 1998. If adverse comment is received, USEPA will publish a timely withdrawal of the rule in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Written comments should be sent to: J. Elmer Bortzer, Chief, Regulation Development Section , Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the requested SIP revision and USEPA's analysis are available for inspection at the U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (Please telephone Randolph O. Cano at (312) 886–6036 before visiting the Region 5 Office.)

**FOR FURTHER INFORMATION CONTACT:** Randolph O. Cano, Environmental Protection Specialist, Regulation Development Section, Air Programs Branch (AR–18J), USEPA, Region 5, Chicago, Illinois 60604, (312) 886–6036.

**SUPPLEMENTARY INFORMATION:**

### I. Background

Under section 111(d) of the CAA, USEPA established procedures whereby States submit plans to control certain existing sources of ''designated pollutants.'' Designated pollutants are defined as pollutants for which a standard of performance for new sources applies under section 111, but which are not ''criteria pollutants'' (i.e., pollutants for which National Ambient Air Quality Standards (NAAQS) are set pursuant to sections 108 and 109 of the CAA) or hazardous air pollutants (HAPs) regulated under section 112 of the CAA. As required by section 111(d) of the CAA, USEPA established a process, at 40 CFR part 60, subpart B, similar to the process required by section 110 of the CAA (regarding State Implementation Plan (SIP) approval) which States must follow in adopting and submitting a section 111(d) plan. Whenever USEPA promulgates a new source performance standard (NSPS) that controls a designated pollutant, USEPA establishes emissions guidelines in accordance with title 40 of the Code of Federal Regulations, § 60.22 (40 CFR 60.22) which contain information pertinent to the control of the designated pollutant from that NSPS source category (i.e., the ''designated facility'' as defined at 40 CFR 60.21(b)). Thus, a State's section 111(d) plan for a designated facility must comply with the emission guideline for that source category as well as 40 CFR part 60, subpart B.

On March 12, 1996, USEPA published emissions guidelines for existing MSW landfills (EG) at 40 CFR part 60, subpart Cc (40 CFR 60.30c through 60.36c) and NSPS for new MSW Landfills at 40 CFR part 60, subpart WWW (40 CFR 60.750 through 60.759) (See 61 FR 9905–9929.). The NSPS and EG regulate MSW landfill emissions, which contain a mixture of volatile organic compounds (VOCs), other organic compounds, methane, and HAPs. VOC emissions can contribute to ozone formation which can result in adverse effects to human health and vegetation. The health effects of HAPs include cancer, respiratory irritation, and damage to the nervous system. Methane emissions contribute to global climate change and can result in fires or explosions when they accumulate in structures on or off the landfill site. To determine if control is required, nonmethane organic compounds (NMOCs) are measured as a surrogate for MSW landfill emissions. Thus, NMOC is considered the designated pollutant. The designated facility which is subject to the EG is each existing MSW landfill (as defined in 40 CFR 60.31c) for which construction, reconstruction or modification was commenced before May 30, 1991.

Pursuant to 40 CFR 60.23(a), States were required to submit a plan for the control of the designated pollutant to which the EG applies within nine months after publication of the EG (i.e. by December 12, 1996). If there were no designated facilities in the State, then the State was required to submit a negative declaration by December 12, 1996.

On March 30, 1998, the State of Ohio submitted its ''Section 111(d) Plan for MSW Landfills'' for implementing USEPA's MSW Landfill EG. The following provides a brief discussion of the requirements for an approvable State plan for existing MSW landfills and USEPA's review of Ohio's submittal with respect to those requirements. More detailed information on the requirements for an approvable plan and Ohio's submittal can be found in the Technical Support Document (TSD) accompanying this notice, which is available upon request.

### II. Review of Ohio's MSW Landfill Plan

USEPA has reviewed Ohio's section 111(d) plan for existing MSW landfills against the requirements of 40 CFR part 60, subpart B and subpart Cc, as follows:

#### *A. Identification of Enforceable State Mechanism for Implementing the EG*

The regulation at 40 CFR 60.24(a) requires that the section 111(d) plan include emissions standards, defined in 40 CFR 60.21(f) as ''a legally enforceable regulation setting forth an allowable rate

of emissions into the atmosphere, or prescribing equipment specifications for control of air pollution emissions.''

The State of Ohio, through the Ohio Environmental Protection Agency (OEPA), has adopted State rules to control air emissions from existing landfills in the State. The Ohio rules for Municipal Solid Waste Landfills are found at Rule 3745–76 of the Ohio Administrative Code (OAC). They were certified by the Director of OEPA, filed with the Ohio Secretary of State on December 17, 1997 and became effective on January 31, 1998. Thus Ohio has met the requirement of 40 CFR 60.24(a) to have legally enforceable emission standards.

*B. Demonstration of the State's Legal Authority to Carry Out the Section 111(d) State Plan as Submitted*

40 CFR 60.26 requires the section 111(d) plan to demonstrate that the State has legal authority to adopt and implement the emission standards and compliance schedules.

OEPA has demonstrated that it has legal authority to adopt and implement the rules governing landfill gas emissions from existing MSW landfills. Ohio Revised Code 3704.03 grants OEPA statutory authority to request this revision to the Ohio State Implementation Plan. OAC 3745–76 provides the regulatory authority necessary to implement the plan.

*C. Inventory of Existing MSW Landfills in the State Affected by the State Plan*

The regulation at 40 CFR 60.25(a) requires the section 111(d) plan to include a complete source inventory of all existing MSW landfills (i.e., those MSW landfills that constructed, reconstructed, or modified prior to May 30, 1991) in the State that are subject to the plan. This includes all existing landfills that have accepted waste since November 8, 1987 or that have additional capacity for future waste deposition.

A list of the existing MSW landfills in Ohio and an estimate of NMOC emissions from each landfill have been submitted as part of the State's landfill 111(d) plan.

*D. Inventory of Emissions From Existing MSW Landfills in the State*

The regulation at 40 CFR 60.25(a) requires that the plan include an emissions inventory that estimates emissions of the pollutant regulated by the EG, which in the case of MSW landfills is NMOC. Ohio included as a part of appendix B of its section 111(d) plan an estimation of NMOC emissions for all of the landfills in the State using the Landfill Air Emissions Estimation Model and AP–42 default emission factors.

*E. Emission Limitations for MSW Landfills*

The regulation at 40 CFR 60.24c specifies that the State plan must include emission standards that are no less stringent than the EG (except as specified in 40 CFR 60.24(f) which allows for less stringent emission limitations on a case-by-case basis if certain conditions are met). 40 CFR 60.33c contains the emissions standards applicable to existing MSW landfills.

The OAC Rule 3745–76–01 through 15 requires existing MSW landfills to comply with the same equipment design criteria and level of control as prescribed in the NSPS. The controls required by the NSPS are the same as those required by the EG. Thus, the emission limitations/standards are ''no less stringent than'' subpart Cc, which meets the requirements of 40 CFR 60.24(c).

The regulation at § 60.24(f) allows States, in certain case-by-case situations, to provide for a less stringent standard. To account for this provision, the Ohio Rule requires an owner/operator to apply a less stringent standard, or longer compliance schedule to submit a written request to the Director of OEPA.

Thus, Ohio's plan meets the emission limitation requirements by requiring emission limitations that are no less stringent than the EG.

*F. A Process for State Review and Approval of Site-Specific Gas Collection and Control System Design Plans*

The provision of the EG at 40 CFR 60.33c(b) requires State plans to include a process for State review and approval of site-specific design plans for required gas collection and control systems.

Ohio's rules regulating landfill gas emissions from MSW landfills essentially make the Federal NSPS applicable to existing MSW landfills. The design criteria and the design specifications for active collection systems specified in the NSPS also apply to existing landfills, unless a request pursuant to 40 CFR 60.24(f) has been approved by the State. The OEPA will then review the submittal for completeness and will request additional information if necessary. The Director will either approve or disapprove the request within six months of its receipt.

Thus, Ohio's section 111(d) plan adequately addresses this requirement.

*G. Compliance Schedules*

The State's section 111(d) plan must include a compliance schedule that owners and operators of affected MSW landfills must meet in complying with the requirements of the plan. 40 CFR 60.36c provides that planning, awarding of contracts, and installation of air emission collection and control equipment capable of meeting the EG must be accomplished within 30 months of the effective date of a State emission standard for MSW landfills. 40 CFR 60.24(e)(1) provides that any compliance schedule extending more than 12 months from the date required for plan submittal shall include legally enforceable increments of progress as specified in 40 CFR 60.21(h), including deadlines for submittal of a final control plan, awarding of contracts for emission control systems, initiation of on-site construction or installation of emission control equipment, completion of on-site construction/installation of emission control equipment, and final compliance.

Ohio Rule 3745–76–06 provides that landfills that are required to install collection and control systems be in final compliance with the requirements of the State plan no later than 30 months from the effective date of State adoption of the State rule or, for those MSW landfills which are not currently subject to the collection and control system requirements, within 30 months of first becoming subject to such requirements (i.e., within 30 months of reporting a NMOC emission rate of 50 Mg/yr or greater). Thus, the State's rule satisfies the requirement of 40 CFR 60.36c.

*H. Testing, Monitoring, Recordkeeping and Reporting Requirements*

The regulation at 40 CFR 60.34c specifies the testing and monitoring provisions that State plans must include (60.34c actually refers to the requirements found in 40 CFR 60.754 to 60.756), and 40 CFR 60.35c specifies the reporting and recordkeeping requirements (60.35c refers to the requirements found in 40 CFR 60.757 and 60.758). Ohio Rule 3745–76 satisfies these requirements.

*I. A Record of Public Hearings on the State Plan*

The regulation at 40 CFR 60.23 contains the requirements for public hearings that must be met by the State in adopting a section 111(d) plan. Additional guidance is found in USEPA's ''Summary of the Requirements for section 111(d) State Plans for Implementing the Municipal

Solid Waste Landfill Emission Guidelines (EPA–456R/96–005, October 1996).'' Ohio included documents in its plan submittal demonstrating that these procedures, as well as the State's administrative procedures, were complied with in adopting the State's plan. Therefore, USEPA finds that Ohio has adequately met this requirement.

*J. Submittal of Annual State Progress Reports to USEPA*

The regulation at 40 CFR 60.25(e) and (f) requires States to submit to USEPA annual reports on the progress of plan enforcement. Ohio committed in its section 111(d) plan to submit annual progress reports to USEPA. The first progress report will be submitted by the State one year after USEPA approval of the State plan.

## III. Final Action

Based on the rationale discussed above, and in further detail in the TSD associated with this action, USEPA is approving Ohio's March 30, 1998 section 111(d) plan for the control of landfill gas from existing MSW landfills. As provided by 40 CFR 60.28(c), any revisions to Ohio's section 111(d) plan or associated regulations will not be considered part of the applicable plan until submitted by the State in accordance with 40 CFR 60.28(a) or (b), as applicable, and until approved by USEPA in accordance with 40 CFR part 60, subpart B.

USEPA is publishing this action without prior proposal because USEPA views this as a noncontroversial revision and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, USEPA is proposing to approve the State Plan should adverse or critical written comments be filed. This action will be effective without further notice unless USEPA receives relevant adverse written comment by September 8, 1998. Should USEPA receive such comments, it will publish a final rule informing the public that this action will not take effect. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on October 6, 1998.

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

## IV. Administrative Requirements

*A. Executive Order 12866*

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

*B. Executive Order 13045*

This final rule is not subject to Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks,'' because it is not an ''economically significant'' action under Executive Order 12866.

*C. Regulatory Flexibility*

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This direct final rule will not have a significant impact on a substantial number of small entities because plan approvals under section 111(d) do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the CAA preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of a State action. The CAA forbids USEPA to base its actions concerning SIPs on such grounds. *Union Electric Co.,* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

*D. Unfunded Mandates*

Under section 202 of the Unfunded Mandates Reform Act of 1995, signed into law on March 22, 1995, USEPA must undertake various actions in association with any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. This Federal action approves pre-existing requirements under State law, and imposes no new requirements. Accordingly, no additional costs to state, local, or tribal governments, or the private sector, result from this action.

*E. Audit Privilege and Immunity Law*

Nothing in this action should be construed as making any determination or expressing any position regarding Ohio's audit privilege and penalty immunity law sections 3745.70–3745.73 of the Ohio Revised Code or its impact upon any approved provision in the SIP, including the revision at issue here. The action taken herein does not express or imply any viewpoint on the question of whether there are legal deficiencies in this or any other CAA program resulting from the effect of Ohio's audit privilege and immunity law. A State audit privilege and immunity law can affect only State enforcement and cannot have any impact on Federal enforcement authorities. USEPA may at any time invoke its authority under the CAA including, for example, sections 113, 167, 205, 211 or 213, to enforce the requirements or prohibitions of the State plan, independently of any State enforcement effort. In addition, citizen enforcement under section 304 of the CAA is likewise unaffected by a State audit privilege or immunity law.

*F. Submission to Congress and the Comptroller General*

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The USEPA will submit 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 United States prior to the publication of the rule in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

*G. Petitions for Judicial Review*

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 6, 1998. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

**List of Subjects in 40 CFR Part 62**

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Methane, Municipal solid waste landfills, Nonmethane organic compounds, Reporting and recordkeeping requirements.

Dated: July 24, 1998.

**David A. Ullrich,**

*Acting Regional Administrator, Region V.*

40 CFR part 62 is amended as follows:

## PART 62—[AMENDED]

1. The authority citation for part 62 continues to read as follows:

**Authority:** 42 U.S.C. 7401–7671q.

## Subpart KK—Ohio

2. Subpart KK is amended by adding a new center heading and §§ 62.8870, 62.8871, and 62.8872 to read as follows:

### Landfill Gas Emissions From Existing Municipal Solid Waste Landfills

**§ 62.8870 Identification of plan.**

The Ohio State Implementation Plan for implementing the Federal Municipal Solid Waste Landfill Emission Guidelines including Ohio Administrative Code (OAC) Rules 3745–76–01 through 3745–76–15 was submitted on March 30, 1998.

**§ 62.8871 Identification of sources.**

The plan applies to all existing municipal solid waste landfills for which construction, reconstruction or modification was commenced before May 30, 1991 that accepted waste at any time since November 8, 1987 or that have additional capacity available for future waste deposition, as described in 40 CFR part 60, subpart Cc.

**§ 62.8872 Effective date.**

The effective date of the plan for municipal solid waste landfills is October 6, 1998.

[FR Doc. 98–21030 Filed 8–6–98; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Parts 63 and 430

**[FRL–6132–6]**

**RIN 2040–AB53**

## National Emission Standards for Hazardous Air Pollutants for Source Category: Pulp and Paper Production; Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards: Pulp, Paper, and Paperboard Category; Correction

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

**ACTION:** Final rule; correction.

**SUMMARY:** EPA is correcting minor errors in the effluent limitations guidelines and standards promulgated under the Clean Water Act for a portion of the pulp, paper and paperboard industry and the national emission standards for hazardous air pollutants promulgated under the Clean Air Act for the pulp and paper production category, which appeared in the **Federal Register** on April 15, 1998 (63 FR 18504).

**DATES:** Effective on August 7, 1998.

**FOR FURTHER INFORMATION CONTACT:** Mr. Troy Swackhammer by voice on (202) 260–7128 or by e-mail at swackhammer.j-troy@epa.gov.

**SUPPLEMENTARY INFORMATION:**

### Overview

The EPA published a document in the April 15, 1998 **Federal Register** (63 FR 18504–18751) promulgating the effluent limitations guidelines and standards under the Clean Water Act (CWA) for a portion of the pulp, paper and paperboard industry and national emission standards for hazardous air pollutants (NESHAP) under the Clean Air Act (CAA) as amended in 1990 for the pulp and paper production source category. The final rules promulgated in the April 15, 1998 **Federal Register** contained some minor errors that are discussed briefly below and are corrected by this notice.

### Administrative Requirements and Related Government Acts

*A. The Administrative Procedure Act*

Consistent with section 553(b) of the Administrative Procedure Act (APA), EPA has found for good cause that notice and an opportunity to comment on these technical corrections is unnecessary because this rule merely corrects typographical errors and clerical oversights and would not benefit from public comment. In addition, EPA has found good cause under APA section 553(d)(3) for waiving the APA's 30-day delay in effectiveness as to these final rules. It is important that these minor technical corrections become effective immediately because they correct or clarify certain regulatory requirements that are currently applicable to facilities within the affected subcategories.

*B. Executive Order 12866 and OMB Review*

EPA has determined that these corrections do not constitute ''significant regulatory action'' that would trigger review by the Office of Management and Budget.

*C. The Regulatory Flexibility Act*

EPA has determined that these corrections 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. 605. With respect to the underlying regulations that this rule corrects, EPA incorporates herein the findings set forth in 63 FR 18504.

*D. Paperwork Reduction Act*

EPA has determined that these regulations do not contain any information collection requirements that require the approval of the Office of Management and Budget pursuant to the Paperwork Reduction Act, 44 U.S.C. chapter 35. With respect to the underlying regulations that these rules correct, EPA incorporates herein the discussion set forth in 63 FR 18504.

*E. Unfunded Mandates Reform Act*

EPA incorporates herein the discussion set forth in 63 FR 18504.

*F. Congressional Review Act*

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. However, section 808 provides that any rule for which the issuing agency for good cause finds (and incorporates the finding and a brief statement of reasons therefore in the rule) that notice and public procedure thereon are impracticable, unnecessary or contrary to the public interest, shall take effect at such time as the agency promulgating the rule determines. 5 U.S.C. 808(2). As stated previously, EPA has made such a good cause finding,

including the reasons therefore, and established an effective date of August 7, 1998. EPA will submit 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 United States prior to publication of the rule in the **Federal Register**. This rule is not a major rule as defined by 5 U.S.C. 804(2).

*G. Other Applicable Executive Orders and Statutes*

EPA incorporates herein the discussion of the Executive Orders and statutes presented in 63 FR 18504. This technical corrections rule is not a ''major rule'' as defined by 5 U.S.C. 804(2); therefore, it is not subject to the 60-day delay in effectiveness specified under the Small Business Regulatory Enforcement Fairness Act of 1996.

*H. Protection of Children from Environmental Health Risks and Safety Risks*

This final rule is not subject to E.O. 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because ''this is not an economically significant regulatory action as defined by E.O. 12866.''

Dated: July 24, 1998.

**Robert Perciasepe,**

*Assistant Administrator for Air and Radiation.*

**J. Charles Fox,**

*Acting Assistant Administrator for Water.*

The following corrections are made in FRL–5924–8, National Emission Standards for Hazardous Air Pollutants for Source Category: Pulp and Paper Production; Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards: Pulp, Paper, and Paperboard Category, which was published in the **Federal Register** on April 15, 1998 (63 FR 18504).

**§ 63.446 [Corrected]**

1. On page 18621, second column, in § 63.446, paragraph (i) is corrected to read:

* * * * *

(i) For the purposes of meeting the requirements in paragraphs (c)(3), (e)(4), or (e)(5) of this section at mills producing both bleached and unbleached pulp products, owners and operators may meet a prorated mass standard that is calculated by prorating the applicable mass standards (kilograms of total HAP per megagram of ODP) for bleached and unbleached pulp products specified in paragraphs (c)(3), (e)(4), or (e)(5) of this section by the ratio of annual megagrams of bleached and unbleached ODP.

* * * * *

**§ 63.447 [Corrected]**

2. On page 18621, third column, in § 63.447, paragraph (d)(1) is corrected to read:

* * * * *

(d) * * *

(1) Process and air pollution control equipment installed and operating on December 17, 1993, and.

* * * * *

**§ 430.01 [Corrected]**

3. On page 18637, third column, § 430.01(i), the second sentence is corrected to read, ''The following minimum levels apply to pollutants in this part:''.

4. On page 18639, second column, in § 430.01, paragraph (p) is corrected to read:

* * * * *

(p) TCDF. 2,3,7,8-tetrachlorodibenzofuran.

* * * * *

**§ 430.24 [Corrected]**

5. On page 18654, in § 430.24 (b)(4)(i) in the table entitled ''Ultimate Voluntary Advanced Technology Incentives Program BAT Limitations,'' in the sixth column, the third line under ''Annual average'' is corrected to read ''0.05''; in note b, the second sentence is corrected to read, ''Under Tier I, this includes all filtrates up to the point where kappa number is measured''; and in note d, the second sentence is corrected to read, ''N/A means ''not applicable.''

6. On page 18654, first column, in § 430.24, paragraph (b)(4)(ii)(A) is corrected to read:

* * * * *

(b) * * *

(4) * * *

(ii) * * *

(A) A discharger enrolled in Tier I of the Voluntary Advanced Technology Incentives Program must achieve the Tier I limitations in paragraph (b)(4)(i) of this section by April 15, 2004.

* * * * *

7. On page 18654, third column, in § 430.24 (d), the second sentence is corrected to read, ''Also, for non-continuous dischargers, concentration limitations (mg/l) shall apply.''

**§ 430.24 [Corrected]**

8. On page 18657, in § 430.25(b) in the table entitled ''Subpart B,'' in the first column, the first line is corrected to read, ''AOX''; the second line is corrected to read,''BOD5''; and the third line is corrected to read, ''TSS''. In the second column, the second line is corrected to read ''4.52[d]'' and third line is corrected to read ''8.47[d]''.

**§ 430.26 [Corrected]**

9. On page 18658, third column, in § 430.26, the last four lines of the introductory text are corrected to read,''pollutants into a publicly owned treatment works must comply with 40 CFR part 403 and must achieve the following pretreatment standards for existing sources (PSES).''

10. On page 18659, in § 430.26, paragraph (a)(2) introductory text is corrected to read:

* * * * *

(a) * * *

(2) The following pretreatment standards apply with respect to each fiber line operated by an indirect discharger subject to this section if the indirect discharger discloses to the pretreatment control authority in a report submitted under 40 CFR 403.12(b), (d), or (e) that it uses exclusively TCF bleaching processes at that fiber line. These pretreatment standards must be attained on or before April 16, 2001:

* * * * *

**§ 430.27 [Corrected]**

11. On pages 18659 and 18660, in the third and first columns, in § 430.27 the introductory text is corrected to read:

Except as provided in 40 CFR 403.7, any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR part 403 and must achieve the following pretreatment standards for new sources (PSNS).

* * * * *

12. On page 18660, in § 430.27, paragraph (a)(2) is corrected to read:

* * * * *

(a) * * *

(2) The following pretreatment standards apply with respect to each new source fiber line operated by an indirect discharger subject to this section if the indirect discharger discloses to the pretreatment control authority in a report submitted under 40 CFR 403.12(b), (d), or (e) that it uses exclusively TCF bleaching processes at that fiber line:

* * * * *

13. On page 18683, third column, in § 430.56, the last four lines of the introductory text are corrected to read ''treatment works must comply with 40 CFR part 403 and must achieve the following pretreatment standards for existing sources (PSES).''

**§ 430.56 [Corrected]**

14. On page 18683, in § 430.56(a)(1) in the table entitled ''SUBPART E [Production of Calcium-, Magnesium-, or Sodium-based Sulfite Pulps],'' in the second column, the first entry is corrected to read ''<ML[a]''.

15. On page 18684, in § 430.56(a)(2)(ii) in the table entitled ''SUBPART E-PRODUCTION OF AMMONIUM-BASED SULFITE PULPS,'' the title in the second column is corrected to read ''PSES (TCF)''.

16. On page 18684, second column, in § 430.56(a)(3)(ii), the reference to ''40 CFR 403.12(b)'' is corrected to read, ''40 CFR 403.12(b), (d), or (e)''.

**§ 430.57 [Corrected]**

17. On page 18685, in § 430.57, paragraph (a)(2)(ii) is corrected to read:

* * * * *

(a) * * *

(2) * * *

(ii) The following pretreatment standards apply with respect to each new source fiber line operated by an indirect discharger producing ammonium-based sulfite pulps if the indirect discharger discloses to the pretreatment control authority in a report submitted under 40 CFR 403.12(b), (d), or (e) that it uses exclusively TCF bleaching processes at that fiber line:

* * * * *

18. On page 18686, in § 430.57, paragaph (a)(3)(ii) introductory text is corrected to read:

* * * * *

(a) * * *

(3) * * *

(ii) The following pretreatment standards apply with respect to each new source fiber line operated by an indirect discharger producing specialty grade sulfite pulps if the indirect discharger discloses to the pretreatment control authority in a report submitted under 40 CFR 403.12(b), (d), or (e) that it uses exclusively TCF bleaching processes at that fiber line:

* * * * *

[FR Doc. 98–20413 Filed 8–6–98; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 180

**[OPP–300686; FRL–6018–1]**

**RIN 2070–AB78**

## Carfentrazone-ethyl; Temporary Pesticide Tolerance

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

**ACTION:** Final rule.

**SUMMARY:** This regulation extends a temporary tolerance for combined residues of the herbicide carfentrazone-ethyl (fluorobenzenepropanoic acid) in or on wheat raw agricultural commodities: 0.2 ppm in or on wheat hay, 0.2 ppm in or on wheat straw, 0.2 ppm in or on wheat grain; and establishing tolerance for combined residues of the herbicide carfentrazone-ethyl (ethyl-alpha-2-dichloro-5-[4-(difluoromethyl)-4,5-dihydro-3-methyl-5-oxo-1H-1,2,4-triazol-1-yl]-4-fluorobenzene-propanoate) and its two major corn metabolites: carfentrazone-ethyl chloropropionic acid (alpha, 2-dichloro-5-[4-difluoromethyl)-4,5-dihydro-3-methyl-5-oxo-1H-1,2,4-triazol-1-yl]-4-fluorobenzenepropanoic acid), and 3-desmethyl-FF8426 chloropropionic acid (alpha,2-dichloro-5-[4-difluromethyl)-4,5-dihydro-5-oxo-1H-1,2,4-triazol-1-yl]-4-fluorobenzenepropanoic acid) in or on corn raw agricultural commodities:; 0.15 ppm in or on corn forage, 0.15 ppm in or on corn fodder, 0.15 ppm in or on corn grain. FMC requested this tolerance under the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1966 (Pub. L. 104-170). The tolerance will expire on May 8, 1999.

**DATES:** This regulation is effective August 7, 1998. Objections and requests for hearings must be received by EPA on or before October 6, 1998.

**ADDRESSES:** Written objections and hearing requests, identified by the docket control number, [OPP–300686], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled ''Tolerance Petition Fees'' and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP–300686], must also be submitted 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, bring a copy of objections and hearing requests to Rm. 119, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect 5.1/6.1 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket control number [OPP–300686]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

**FOR FURTHER INFORMATION CONTACT:** By mail: Joanne I. Miller, Product Manager PM-23, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 305–6224, e-mail: miller.joanne@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:** In the **Federal Register** of June 10, 1998 (63 FR 31769) (FRL–5793–1), EPA, issued a notice pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e) announcing the filing of a pesticide petition (PP 6G4615) for a tolerance by FMC Corporation, 1735 Market St., Philadelphia, PA 19103. This notice included a summary of the petition prepared by FMC Corporation, the registrant. There were no comments received in response to the notice of filing.

The petition requested that 40 CFR part 180 be amended by extending a temporary tolerance for combined residues of the herbicide carfentrazone-ethyl (ethyl-alpha-2-dichloro-5-[4-(difluoromethyl)-4,5-dihydro-3-methyl-5-oxo-1H-1,2,4-triazol-1-yl]-4-fluorobenzene-propanoate), and its metabolite, in or on field corn forage, fodder, and grain at 0.15 parts per million (ppm); and for wheat hay, straw,

and grain at 0.2 ppm. This tolerance will expire on May 8, 1999.

This tolerance request was submitted in a transmittal letter, dated April 29, 1998, along with an application for an experimiental use permit (EUP). This EUP proposes the experimental use of carfentrazone-ethyl on corn and wheat. Under FIFRA, section 516C for experimental use permits, a temporary tolerance level must be established if a pesticide may reasonably be expected to result in any residue on or in food or feed use.

## I. Risk Assessment and Statutory Findings

New section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give specialconsideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. First, EPA determines the toxicity of pesticides based primarily on toxicological studies using laboratory animals. These studies address many adverse health effects, including (but not limited to) reproductive effects, developmental toxicity, toxicity to the nervous system, and carcinogenicity. Second, EPA examines exposure to the pesticide through the diet (e.g., food and drinking water) and through exposures that occur as a result of pesticide use in residential settings.

### *A. Toxicity*

1. *Threshold and non-threshold effects.* For many animal studies, a dose response relationship can be determined, which provides a dose that causes adverse effects (threshold effects) and doses causing no observed effects (the ''no-observed effect level'' or ''NOEL'').

Once a study has been evaluated and the observed effects have been determined to be threshold effects, EPA generally divides the NOEL from the study with the lowest NOEL by an uncertainty factor (usually 100 or more) to determine the Reference Dose (RfD). The RfD is a level at or below which daily aggregate exposure over a lifetime will not pose appreciable risks to human health. An uncertainty factor (sometimes called a ''safety factor'') of 100 is commonly used since it is assumed that people may be up to 10 times more sensitive to pesticides than the test animals, and that one person or subgroup of the population (such as infants and children) could be up to 10 times more sensitive to a pesticide than another. In addition, EPA assesses the potential risks to infants and children based on the weight of the evidence of the toxicology studies and determines whether an additional uncertainty factor is warranted. Thus, an aggregate daily exposure to a pesticide residue at or below the RfD (expressed as 100% or less of the RfD) is generally considered acceptable by EPA. EPA generally uses the RfD to evaluate the chronic risks posed by pesticide exposure. For shorter term risks, EPA calculates a margin of exposure (MOE) by dividing the estimated human exposure into the NOEL from the appropriate animal study. Commonly, EPA finds MOEs lower than 100 to be unacceptable. This 100-fold MOE is based on the same rationale as the 100-fold uncertainty factor.

Lifetime feeding studies in two species of laboratory animals are conducted to screen pesticides for cancer effects. When evidence of increased cancer is noted in these studies, the Agency conducts a weight of the evidence review of all relevant toxicological data including short-term and mutagenicity studies and structure activity relationship. Once a pesticide has been classified as a potential human carcinogen, different types of risk assessments (e.g., linear low dose extrapolations or MOE calculation based on the appropriate NOEL) will be carried out based on the nature of the carcinogenic response and the Agency's knowledge of its mode of action.

2. *Differences in toxic effect due to exposure duration.* The toxicological effects of a pesticide can vary with different exposure durations. EPA considers the entire toxicity data base, and based on the effects seen for different durations and routes of exposure, determines which risk assessments should be done to assure that the public is adequately protected from any pesticide exposure scenario. Both short and long durations of exposure are always considered. Typically, risk assessments include ''acute,'' ''short-term,'' ''intermediate term,'' and ''chronic'' risks. These assessments are defined by the Agency as follows.

Acute risk, by the Agency's definition, results from 1-day consumption of food and water, and reflects toxicity which could be expressed following a single oral exposure to the pesticide residues. High end exposure to food and water residues are typically assumed.

Short-term risk results from exposure to the pesticide for a period of 1-7 days, and therefore overlaps with the acute risk assessment. Historically, this risk assessment was intended to address primarily dermal and inhalation exposure which could result, for example, from residential pesticide applications. However, since enaction of FQPA, this assessment has been expanded to include both dietary and non-dietary sources of exposure, and will typically consider exposure from food, water, and residential uses when reliable data are available. In this assessment, risks from average food and water exposure, and high-end residential exposure, are aggregated. High-end exposures from all three sources are not typically added because of the very low probability of this occurring in most cases, and because the other conservative assumptions built into the assessment assure adequate protection of public health. However, for cases in which high-end exposure can reasonably be expected from multiple sources (e.g. frequent and widespread homeowner use in a specific geographical area), multiple high-end risks will be aggregated and presented as part of the comprehensive risk assessment/characterization. Since the toxicological endpoint considered in this assessment reflects exposure over a period of at least 7 days, an additional degree of conservatism is built into the assessment; i.e., the risk assessment nominally covers 1-7 days exposure, and the toxicological endpoint/NOEL is selected to be adequate for at least 7 days of exposure. (Toxicity results at lower levels when the dosing duration is increased.)

Intermediate-term risk results from exposure for 7 days to several months. This assessment is handled in a manner similar to the short-term risk assessment.

Chronic risk assessment describes risk which could result from several months to a lifetime of exposure. For this assessment, risks are aggregated considering average exposure from all sources for representative population

subgroups including infants and children.

*B. Aggregate Exposure*

In examining aggregate exposure, FFDCA section 408 requires that EPA take into account available and reliable information concerning exposure from the pesticide residue in the food in question, residues in other foods for which there are tolerances, residues in groundwater or surface water that is consumed as drinking water, and other non-occupational exposures through pesticide use in gardens, lawns, or buildings (residential and other indoor uses). Dietary exposure to residues of a pesticide in a food commodity are estimated by multiplying the average daily consumption of the food forms of that commodity by the tolerance level or the anticipated pesticide residue level. The Theoretical Maximum Residue Contribution (TMRC) is an estimate of the level of residues consumed daily if each food item contained pesticide residues equal to the tolerance. In evaluating food exposures, EPA takes into account varying consumption patterns of major identifiable subgroups of consumers, including infants and children. The TMRC is a ''worst case'' estimate since it is based on the assumptions that food contains pesticide residues at the tolerance level and that 100% of the crop is treated by pesticides that have established tolerances. If the TMRC exceeds the RfD or poses a lifetime cancer risk that is greater than approximately one in a million, EPA attempts to derive a more accurate exposure estimate for the pesticide by evaluating additional types of information (anticipated residue data and/or percent of crop treated data) which show, generally, that pesticide residues in most foods when they are eaten are well below established tolerances.

Percent of crop treated estimates are derived from federal and private market survey data. Typically, a range of estimates are supplied and the upper end of this range is assumed for the exposure assessment. By using this upper end estimate of percent of crop treated, the Agency is reasonably certain that exposure is not understated for any significant subpopulation group. Further, regional consumption information is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups, to pesticide residues. For this pesticide, the most highly exposed population subgroup (non-nursing infants <1 year old) was not regionally based.

## II. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action, EPA has sufficient data to assess the hazards of carfentrazone-ethyl and to make a determination on aggregate exposure, consistent with section 408(b)(2), for a temporary tolerance for combined residues of carfentrazone-ethyl (ethyl-alpha-2-dichloro-5-[4-(difluoromethyl)-4,5-dihydro-3-methyl-5-oxo-1H-1,2,4-triazol-1-yl]-4-fluorobenzene-propanoate) and its metabolites on wheat at 0.2 ppm and corn at 0.15 ppm. EPA's assessment of the dietary exposures and risks associated with establishing the tolerance follows.

*A. Toxicological Profile*

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by carfentrazone-ethyl are discussed below.

1. A battery of acute toxicity studies placed technical carfentrazone in Toxicity Categories III and IV. No evidence of sensitization was observed following dermal application in guinea pigs.

2. A 90-day subchronic toxicity study was conducted in rats, with dietary intake levels of 58, 226, 4,700, 831 and 1,197 milligrams/kilogram/day (mg/kg/day) in males and 72, 284, 578, 1,008 and 1,427 mg/kg/day in females, respectively. A NOEL of 226 mg/kg/day (males) and 5,778 mg/kg/day (females) was established. Lowest observed effect levels (LOELs) of 470 mg/kg/day (males) and 578 mg/kg/day (females) was established based on decreases in body weights and/or gains, reductions in food consumption, alterations in clinical chemistry parameters, and histopathological lesions.

3. A reverse gene mutation assay (*salmonella typhirmurium*) yielded negative results, both with and without metabolic activation.

4. An *in vitro* mutation assay test yielded negative results, there was no indication of an increased incidence of gene mutation at the HGPRT locus as a result of exposure.

5. An *in vitro* mammalian cytogenetic test yielded positive under nonactivated conditions in this assay.

6. An *in vivo* micronucleus cytogenetic assay study was conducted in mice by IP injection of 600, 1,200 and 2,400 mg/kg to groups of 5 males and 5 females. There was no indication of an increased incidence in micronucleated polychromatic erythrocytes associated with exposure to the test material.

7. A 13-week study was conducted on 4 pure breed Beagle dogs/sex/group for 90 days at dietary intake levels of 0, 50, 150, 500 and 1,000 mg/kg/day. NOELs of 500 mg/kg/day for both sexes and the LOEL of 150 mg/kg/day, based on systemic toxicity (decrease in the rate of weight gain in females and an increase in porphyrin levels in both sexes).

8. An oral prenatal developmental study was administered by gavage to pregnant female New Zealand white rabbits (20/group) on days 7-19 of gestation at dose levels of 0, 10, 40, 150, or 300 mg/kg/day. There was no evidence of treatment-related prenatal developmental toxicity. The developmental LOEL was not determined. The developmental NOEL (greater or equal to sign) of 300 mg/kg/day.

*B. Toxicological Endpoints*

1. *Acute toxicity*. The Agency does not have a concern for an acute dietary assessment since the available data do not indicate any evidence of significant toxicity from a one day or single event exposure by the oral route, therefore an acute (food and water) risk assessment was not required.

2. *Chronic toxicity*. EPA has established the RfD for carfentrazone-ethyl at 0.06 mg/kg/day. This RfD is based on the NOEL of 60 mg/kg/day from a 90-day rat study with a 1,000 fold uncertainty factor.

3. *Carcinogenicity*. No concern for cancer risks were identified. Data from available studies do not indicate a treatment-related tumor problem, and cancer risk endpoints have not been identified.

*C. Exposures and Risks*

1. *From food and feed uses.* Tolerances have not yet been established (40 CFR 180 ) for the combined residues of carfentrazone-ethyl (ethyl-alpha-2-dichloro-5-[4-(difluoromethyl)-4,5-dihydro-3-methyl-5-oxo-1H-1,2,4-triazol-1-yl]-4-fluorobenzene-propanoate), and its metabolites, in or on a variety of raw agricultural commodities. Due to the non-quantifiable carfentrazone-ethyl residues in/on the treated RAC's (except wheat forage, however, there is a label feeding restriction) fed to livestock and the limited number of acres involved, there is no expectation of secondary

residues in livestock commodities of meat, meat-by-products, fat, milk, and eggs. Risk assessments were conducted by EPA to assess dietary exposures and risks from carfentrazone-ethyl as follows:

i. *Acute exposure and risk.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a one day or single exposure. No short - and intermediate endpoints for occupational and residential exposure were identified.

ii. *Chronic exposure and risk.* The chronic dietary analysis indicates that exposure from the proposed temporary tolerances for use of carfentrazone-ethyl in/on corn and wheat for the U.S. population would account for less than 1% of the RfD. For children (1-6 years), the subgroup with the highest exposure, 1% of the RfD would be utilized.

This chronic analysis for carfentrazone is an upper-bound estimate of dietary exposure with all residues at tolerance level and assuming 100% of the commodities to be treated. Since only 4,000 acres of wheat and 4,000 acres of corn will be treated under this EUP program which represents less than 1% of the total wheat and corn harvested in the United States, this dietary analysis represents an over estimate of the percent RfD that will be utilized by the proposed temporary tolerances. Therefore, the chronic dietary risk resulting from the proposed temporary tolerances for carfentrazone-ethyl will not exceed the Agency's level of concern.

2. *From drinking water.* A chronic dietary risk assessment from drinking water was not conducted because of the short duration of the EUP (2 years) and the small percentage of treated acres for corn and wheat as a result of the proposed use (<1% of the total U.S. production for both commodities).

3. *Acute exposure and risk.* As part of the hazard assessment process, the Agency reviews the available toxicological database to determine the endpoints of concern for acute dietary risk. There is no concern since the available data do not indicate any evidence of significant toxicity from a one day or single event exposure by the oral route. Therefore an acute dietary risk assessment was not required.

Because the Agency lacks sufficient water-related exposure data to complete a comprehensive drinking water risk assessment for many pesticides, EPA has commenced and nearly completed a process to identify a reasonable yet conservative bounding figure for the potential contribution of water-related exposure to the aggregate risk posed by a pesticide. In developing the bounding figure, EPA estimated residue levels in water for a number of specific pesticides using various data sources. The Agency then applied the estimated residue levels, in conjunction with appropriate toxicological endpoints (RfD's or acute dietary NOEL's) and assumptions about body weight and consumption, to calculate, for each pesticide, the increment of aggregate risk contributed by consumption of contaminated water. While EPA has not yet pinpointed the appropriate bounding figure for exposure from contaminated water, the ranges the Agency is continuing to examine are all below the level that would cause carfentrazone-ethyl to exceed the RfD if the tolerance being considered in this document were granted. The Agency has therefore concluded that the potential exposures associated with carfentrazone-ethyl in water, even at the higher levels the Agency is considering as a conservative upper bound, would not prevent the Agency from determining that there is a reasonable certainty of no harm if the tolerance is granted.

4. *From non-dietary exposure.* The proposed uses for this pesticide does not include uses that would result in a non-dietary, non-occupational exposure.

5. *Cumulative exposure to substances with common mechanism of toxicity.* Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.'' The Agency believes that ''available information'' in this context might include not only toxicity, chemistry, and exposure data, but also scientific policies and methodologies for understanding common mechanisms of toxicity and conducting cumulative risk assessments. For most pesticides, although the Agency has some information in its files that may turn out to be helpful in eventually determining whether a pesticide shares a common mechanism of toxicity with any other substances, EPA does not at this time have the methodologies to resolve the complex scientific issues concerning common mechanism of toxicity in a meaningful way. EPA has begun a pilot process to study this issue further through the examination of particular classes of pesticides. The Agency hopes that the results of this pilot process will increase the Agency's scientific understanding of this question such that EPA will be able to develop and apply scientific principles for better determining which chemicals have a common mechanism of toxicity and evaluating the cumulative effects of such chemicals. The Agency anticipates, however, that even as its understanding of the science of common mechanisms increases, decisions on specific classes of chemicals will be heavily dependent on chemical specific data, much of which may not be presently available.

Although at present the Agency does not know how to apply the information in its files concerning common mechanism issues to most risk assessments, there are pesticides as to which the common mechanism issues can be resolved. These pesticides include pesticides that are toxicologically dissimilar to existing chemical substances (in which case the Agency can conclude that it is unlikely that a pesticide shares a common mechanism of activity with other substances) and pesticides that produce a common toxic metabolite (in which case common mechanism of activity will be assumed).

EPA does not have, at this time, available data to determine whether carfentrazone-ethyl has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, carfentrazone-ethyl does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that carfentrazone-ethyl has a common mechanism of toxicity with other substances.

### *D. Aggregate Risks and Determination of Safety for U.S. Population*

1. *Acute risk.* The Agency does not have a concern for acute dietary assessment since the available data do not indicate any evidence of significant toxicity from a one day or single event exposure by the oral route. An acute dietary risk assessment was not required.

2. *Chronic risk.* The chronic dietary analysis indicates that exposure from the proposed temporary tolerances for use of carfentrazone-ethyl in/on corn and wheat for the U.S. population would account for less than 1% of the RfD. For children (1-6 years), the subgroup with the highest exposure, 1% of the RfD would be utilized. A chronic dietary risk (food and water) was not conducted for the following reasons: the short duration of this EUP, the small percentage of treated acres for corn and

wheat as a result of the proposed use (<1% of the total U.S. production for both commodities; and the fact that these commodities are blended before consumption). This chronic analysis for carfentrazone-ethyl is an upper-bound estimate of dietary exposure with all residues at tolerance level and assuming 100% of the commodities to be treated. Since only 4,000 acres of wheat and 4,000 acres of corn will be treated under this EUP program, which represents less than 1% of the total wheat and corn harvested in the United States, this dietary analysis represents an over estimate of the percent RfD that will be utilized by the proposed temporary tolerances. Therefore, the chronic dietary risk resulting from the proposed temporary tolerances for carfentrazone-ethyl will not exceed the Agency's level of concern. EPA concludes that there is a reasonable certainty that no harm will result from aggregate exposure to carfentrazone-ethyl residues.

*E. Aggregate Cancer Risk for U.S. Population*

The chronic dietary analysis indicates that exposure from the proposed temporary tolerances for use of carfentrazone-ethyl in/on corn and wheat for the U.S. population would account for less than 1% RfD. There is no concern for cancer risks identified. Data from available studies do not indicate a treatment-related tumor problem, and cancer endpoints have not been identified.

*F. Aggregate Risks and Determination of Safety for Infants and Children*

1. *Safety factor for infants and children*— i. *In general.* In assessing the potential for additional sensitivity of infants and children to residues of carfentrazone-ethyl, EPA considered data from developmental toxicity studies in the rat and rabbit. Developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from pesticide exposure during prenatal development to one or both parents. Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability of mating animals and data on systemic toxicity.

FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for pre-and post-natal toxicity and the completeness of the database unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a MOE analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans. EPA believes that reliable data support using the standard MOE and uncertainty factor (usually 100 for combined inter- and intra-species variability)) and not the additional tenfold MOE/uncertainty factor when EPA has a complete data base under existing guidelines and when the severity of the effect in infants or children or the potency or unusual toxic properties of a compound do not raise concerns regarding the adequacy of the standard MOE/safety factor.

ii. *Developmental toxicity studies— a. Rabbits.* A prenatal oral developmental toxicity study in rabbits with dose levels of 0, 10, 40, 150, or 300 mg/kg/day with a maternal LOEL of 300/mg/kg/day and the maternal NOEL of ≧ 150 mg/kg/day. There was not evidence of treatment-related prenatal developmental toxicity.

b. *Rat.* A prenatal oral developmental toxicity study in the rat at dose levels of 0, 100, 600, or 1,250 mg/kg/day with a maternal LOEL of 600 m g/kg/day based on staining of the abdominogential area and of the cage pan liner; and with the maternal NOEL of 100 mg/kg/day. The developmental NOEL of 1,250 mg/kg/day was based upon a significant increase in the litter incidences of wavy and thickened ribs and with the developmental NOEL of 600 mg/kg/day.

iii. *Reproductive toxicity study.* Under Title 40 of the Code of Federal Regulations, part 158, § 158.340, a 2-generation reproduction study is not required for an EUP when the TMRC is less than 50% of the RfD. Exposure from the proposed temporary tolerance of carfentrazone-ethyl from use on wheat and corn will account for less than 1% of the RfD.

iv. *Pre- and post-natal sensitivity.* There was no evidence of pre-and post-natal sensitivity in the prenatal oral developmental studies discussed above.

v. *Conclusion.* All required toxicology studies have been completed for this phase of the registration process. The required developmental studies show no pre-natal sensitivity. Based on these findings as well as the generally low toxicity seen in all of the carfentrazone studies, EPA concludes there is reliable data supporting not using an additional 10-fold safety factor for the protection of infants and children. EPA believes the 1,000-fold safety factor used in assessing the carfentrazone risk is adequate to protect all consumers. The 1,000-fold safety factor includes a 100-fold factor for intra- and inter-species differences and a 10-fold factor because the RfD was based on subchronic study.

2. *Chronic risk.* EPA has concluded that aggregate exposure to carfentrazone-ethyl from food will utilize 1% of the RfD for infants and children. EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Despite the potential for exposure to carfentrazone-ethyl in drinking water and from non-dietary, non-occupational exposure, EPA does not expect the aggregate exposure to exceed 100% of the RfD. EPA concludes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to carfentrazone-ethyl residues.

## III. Other Considerations

*A. Metabolism In Plants and Animals*

The metabolism of carfentrazone-ethyl in plants is adequately understood for the purposes of these tolerances. For the purposes of this EUP, the residues of concern are the parent carfentrazone-ethyl and its two major metabolites. The nature of the residue in animals has not been reported. Due to the non-quantifiable carfentrazone-ethyl residues in/on the treated RACs, except wheat forage (there is a label feeding restriction in this EUP) fed to livestock and the limited number of acres involved, there is no expectation of secondary residues in livestock commodities of meat, meat-by-products, fat, milk, and eggs.

*B. Analytical Enforcement Methodology*

There is a practical analytical method for detecting and measuring levels of carfentrazone and its metabolites in or on food with a limit of detection that allows monitoring of food with residues at or above the levels set in these tolerances. The proposed analytical method for determining residues is hydrolysis followed by gas chromatographic separation. For the parent carfentrazone-ethyl, acceptable method recoveries were established at a limit of quantitation (LOQ) of 0.05 ppm, and a limit of detection (LOD) was set at 0.01 ppm for all the field corn and wheat crop matrices. The methodology can also be used to determine major plant metabolites with similar LOQs and LODs. No analytical method for meat, milk and eggs has been submitted by the registrant. Since no temporary tolerances have been proposed for animal RACs, an analytical enforcement

method for animals is not required for this EUP.

*C. Magnitude of Residues*

The magnitude of the residue in animals has not been reported. These data will not be required for this EUP due to the non-quantifiable carfentrazone-ethyl residues in/on treated RACs (corn forage, fodder, and grain, and wheat hay, straw, and grain) fed to livestock and the limited number of acres involved. Residues were only found in wheat forage, therefore for this EUP only, a grazing restriction must be included to prohibit the grazing and harvesting of wheat forage as a feedstuff.

*D. International Residue Limits*

There is no Codex proposal, no Canadian or Mexican limits for residues of carfentrazone-ethyl in corn or wheat. A compatibility issue is not relevant to the proposed tolerances for either crop.

## IV. Conclusion

Therefore, the temporary tolerance is extended for combined residues of carfentrazone (ethyl-alpha-2-dichloro-5-[4-(difluoromethyl)-4,5-dihydro-3-methyl-5-oxo-1H-1,2,4-triazol-1-yl]-4-fluorobenzene-propanoate) and its metabolites in wheat at 0.20 ppm and corn at 0.15 ppm.

## V. Objections and Hearing Requests

The new FFDCA section 408(g) provides essentially the same process for persons to ''object'' to a tolerance regulation issued by EPA under new section 408(e) and (l)(6) as was provided in the old section 408 and in section 409. However, the period for filing objections is 60 days, rather than 30 days. EPA currently has procedural regulations which govern the submission of objections and hearing requests. These regulations will require some modification to reflect the new law. However, until those modifications can be made, EPA will continue to use those procedural regulations with appropriate adjustments to reflect the new law.

Any person may, by October 6, 1998, file written objections to any aspect of this regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issues on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the requestor (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as Confidential Business Information (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

## VI. Public Record and Electronic Submissions

EPA has established a record for this rulemaking under docket control number [OPP–300686] (including any comments and data submitted electronically). 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 public record is located in Room 119 of the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments may 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.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the Virginia address in ''ADDRESSES'' at the beginning of this document.

## VII. Regulatory Assessment Requirements

This final rule extends a temporary tolerance under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled Regulatory Planning and Review (58 FR 51735, October 4, 1993). This final rule 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) (Pub. 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), or 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 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, since these tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the temporary tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. Nevertheless, the Agency has previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance actions published on May 4, 1981 (46 FR 24950) and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

### VIII. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit 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 United States prior to publication of the rule in the **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 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: July 29, 1998.

**Arnold E. Layne,**

*Acting Director, Registration Division, Office of Pesticide Programs.*

Therefore, 40 CFR Chapter I is amended as follows:

## PART 180–[AMENDED]

1. The authority citation for part 180 continues to read as follows:

**Authority:** 21 U.S.C. 346a and 371.

### § 180.515 [AMENDED]

2. In § 180.515 by amending the table in paragraph (a) for all of the commodities by changing the date ''5/8/98'' to read ''5/8/99.''

[FR Doc. 98–21201 Filed 8–6–98; 8:45 am]

BILLING CODE 6560–50–F

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## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 180

**[OPP–300694; FRL–6021–2]**
**RIN 2070–AB78**

## Avermectin; Extension of Tolerance for Emergency Exemptions

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

**ACTION:** Final rule.

**SUMMARY:** This rule extends a time-limited tolerance for residues of the insecticide and miticide avermectin B1 and its delta-8,9-isomer in or on spinach and celeriac at 0.05 part per million (ppm) for an additional 18 month period, to January 31, 2000. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of the pesticide on spinach and celeriac. Section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA) requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA.

**DATES:** This regulation becomes effective August 7, 1998. Objections and requests for hearings must be received by EPA, on or before October 6, 1998.

**ADDRESSES:** Written objections and hearing requests, identified by the docket control number, [OPP–300694], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled ''Tolerance Petition Fees'' and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP–300694], must also be submitted 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, bring a copy of objections and hearing requests to Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Follow the instructions in Unit II. of this preamble. No Confidential Business Information (CBI) should be submitted through e-mail.

**FOR FURTHER INFORMATION CONTACT:** By mail: Daniel J. Rosenblatt, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location , telephone number, and e-mail address: Rm. 280, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703) 308–9375; e-mail: rosenblatt.dan@epamail.epa.gov. .

**SUPPLEMENTARY INFORMATION:** EPA issued a final rule, published in the **Federal Register** of August 19, 1997 (62 FR 44089) (FRL-5737-1), which announced that on its own initiative and under section 408(e) of the FFDCA, 21 U.S.C. 346a(e) and (l)(6), it established a time-limited tolerance for the residues of avermectin and its metabolites in or on spinach and celeriac at 0.05 ppm, with an expiration date of July 31, 1998. EPA established the tolerance because section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA. Such tolerances can be established without providing notice or period for public comment.

EPA received a request to extend the use of avermectin on spinach and celeriac for this year's growing season due to the yield losses associated with the two-spotted spider mite in celeriac and the leafminer in spinach. After having reviewed the submission, EPA concurs that emergency conditions exist. EPA has authorized under FIFRA section 18 the use of avermectin on spinach and celeriac.

EPA assessed the potential risks presented by residues of avermectin in or on spinach and celeriac. In doing so, EPA considered the new safety standard in FFDCA section 408(b)(2), and decided that the necessary tolerance under FFDCA section 408(l)(6) would be consistent with the new safety standard and with FIFRA section 18. The data and other relevant material have been evaluated and discussed in the final rule of August 19, 1997 (62 FR 44089). Based on that data and information considered, the Agency reaffirms that extension of the time-limited tolerance will continue to meet the requirements of section 408(l)(6). Therefore, the time-limited tolerance is extended for an additional 18 month period. Although this tolerance will expire and is revoked on January 31, 2000, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on spinach and celeriac after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA and the application occurred prior to the revocation of the tolerance. EPA will take action to revoke this tolerance earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

## I. Objections and Hearing Requests

The new FFDCA section 408(g) provides essentially the same process for persons to ''object'' to a tolerance regulation issued by EPA under new section 408(e) and (l)(6) as was provided in the old section 408 and in section 409. However, the period for filing objections is 60 days, rather than 30 days. EPA currently has procedural regulations which govern the submission of objections and hearing requests. These regulations will require some modification to reflect the new law. However, until those modifications can be made, EPA will continue to use those procedural regulations with appropriate adjustments to reflect the new law.

Any person may, by October 6, 1998, file written objections to any aspect of this regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issues on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the requestor (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). Information submitted in connection with an objection or hearing request 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 information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

## II. Public Record and Electronic Submissions

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the Virginia address in ''ADDRESSES''at the beginning of this document

Electronic comments may be sent directly to EPA at: opp-docket@epamail.epa.gov.

Electronic objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Objections and hearing requests will also be accepted on disks in WordPerfect 51/6.1 or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket control number [OPP–300694]. No CBI should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

## III. Regulatory Assessment Requirements

This final rule extends a time-limited tolerance that was previously issued extended by EPA under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled Regulatory Planning and Review (58 FR 51735, October 4, 1993). In IN addition, this final rule 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) (Pub. 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), or 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 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).

Since this extension of an existing time-limited tolerance does not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. Nevertheless, the Agency has previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance actions published on May 4, 1981 (46 FR 24950), and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

## IV. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the Agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit 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 United States prior to publication of this rule in the **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 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: July 29, 1998.

**Arnold E. Layne,**

*Acting Director, Registration Division, Office of Pesticide Programs.*

Therefore, 40 CFR chapter I is amended as follows:

## PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

**Authority:** 21 U.S.C. 346a and 371.

**§ 180.449 [Amended]**

2. In § 180.449, by amending paragraph (b) in the table, for the commodities ''celeriac'' and ''spinach'' by revising the date ''7/31/98'' to read ''1/31/00''.

[FR Doc. 98–21203 Filed 8–6–98; 8:45 am]

BILLING CODE 6560–50–F

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 180

**[OPP–300691; FRL 6020–1]**

**RIN 2070–AB78**

## Endothall; Extension of Tolerance for Emergency Exemptions

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

**ACTION:** Final rule.

**SUMMARY:** This rule extends a time-limited tolerance for residues of the herbicide endothall and its metabolites in or on canola seed at 0.3 part per million (ppm) for an additional 18 months, to February 29, 2000. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of the pesticide on canola. Section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA) requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA.

**DATES:** This regulation becomes effective August 7, 1998. Objections and requests for hearings must be received by EPA, on or before October 6, 1998.

**ADDRESSES:** Written objections and hearing requests, identified by the docket control number, [OPP–300691], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled ''Tolerance Petition Fees'' and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP-300691], must also be submitted 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, bring a copy of objections and hearing requests to Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Follow the instructions in Unit II. of this preamble. No Confidential Business Information (CBI) should be submitted through e-mail.

**FOR FURTHER INFORMATION CONTACT:** By mail: Andrea Beard, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 267, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA, 703–308–9356; e-mail: beard.andrea@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:** EPA issued a final rule, published in the **Federal Register** of September 24, 1997 (62 FR 49925) [(FRL 5740–8)], which announced that on its own initiative and under section 408(e) of the FFDCA, 21 U.S.C. 346a(e) and (l)(6), it established a time-limited tolerance for the residues of endothall and its metabolites in or on canola seed at 0.3 ppm, with an expiration date of August 31, 1998. EPA established the tolerance because section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA. Such tolerances can be established without providing notice or period for public comment.

EPA received a request to extend the use of endothall on canola for this year's growing season since the situation has remained virtually unchanged from last year. It remains an emergency, and the exemption for use of endothall is still warranted. After having reviewed the submission, EPA concurs that emergency conditions exist for these states. EPA has allowed the states of Montana, Minnesota, and North Dakota to issue crisis exemptions under FIFRA section 18 the use of endothall on canola for control of weeds in canola.

EPA assessed the potential risks presented by residues of endothall in or on canola seed. In doing so, EPA considered the new safety standard in FFDCA section 408(b)(2), and decided that the necessary tolerance under FFDCA section 408(l)(6) would be consistent with the new safety standard and with FIFRA section 18. The data and other relevant material have been evaluated and discussed in the final rule of September 24, 1997 (62 FR 49925). Based on that data and information considered, the Agency reaffirms that extension of the time-limited tolerance will continue to meet the requirements of section 408(l)(6). Therefore, the time-limited tolerance is extended for an additional 18 month period. Although this tolerance will expire and is revoked on February 29, 2000, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on canola seed after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA and the application occurred prior to the revocation of the tolerance. EPA will take action to revoke this tolerance earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

### I. Objections and Hearing Requests

The new FFDCA section 408(g) provides essentially the same process for persons to ''object'' to a tolerance regulation issued by EPA under new section 408(e) and (l)(6) as was provided in the old section 408 and in section 409. However, the period for filing objections is 60 days, rather than 30 days. EPA currently has procedural regulations which govern the submission of objections and hearing requests. These regulations will require some modification to reflect the new law. However, until those modifications can be made, EPA will continue to use those procedural regulations with appropriate adjustments to reflect the new law.

Any person may, by October 6, 1998, file written objections to any aspect of this regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issues on which a hearing is requested, the requestor's

contentions on such issues, and a summary of any evidence relied upon by the requestor (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). Information submitted in connection with an objection or hearing request 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 information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

## II. Public Record and Electronic Submissions

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the Virginia address in ''ADDRESSES'' at the beginning of this document

Electronic comments may be sent directly to EPA at: opp-docket@epamail.epa.gov.

Electronic objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Objections and hearing requests will also be accepted on disks in WordPerfect 5.1/6.1 or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket control number [OPP–300691]. No CBI should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

## III. Regulatory Assessment Requirements

This final rule extends a time-limited tolerance that was previously established by EPA under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled Regulatory Planning and Review (58 FR 51735, October 4, 1993). In addition, this final rule 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) (Pub. 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), or 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 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).

Since this extension of an existing time-limited tolerance does not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. Nevertheless, the Agency has previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance actions published on May 4, 1981 (46 FR 24950), and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

## IV. Submission to Congress and the General Accounting Office

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

## List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: July 29, 1998.

**Arnold E. Layne**

*Director, Registration Division, Office of Pesticide Programs.*

Therefore, 40 CFR chapter I is amended as follows:

## PART 180 — [AMENDED]

1. The authority citation for part 180 continues to read as follows:

**Authority:** 21 U.S.C. 346a and 371.

### §180.293 [Amended]

2. In §180.293, by amending paragraph (b) by changing the date for canola, seed from ''8/31/98'' to read ''2/29/00''.

[FR Doc. 98–21202 Filed 8–6–98; 8:45 am]

BILLING CODE 6560–50–F

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## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Parts 180 and 185

**[OPP–300697; FRL–6021–7]**

**RIN 2070–AB78**

## Flutolanil; Pesticide Tolerance

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

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes time-limited tolerances, to expire on December 31, 2000, for residues of the fungicide flutolanil *N*-(3-(1-methylethoxy)phenyl)-2-(trifluoromethyl)benzamide and its metabolites converted to 2-(trifluoromethyl)benzoic acid and calculated as flutolanil in or on the raw agricultural commodities rice grain at 2.0 parts per million (ppm) and rice straw at 8.0 ppm and in or on the processed food or feed commodities rice hulls at 7.0 ppm and rice bran at 3.0 ppm when present therein as a result of application of the fungicide to growing crops. AgrEvo USA Company requested the tolerances under the Federal Food, Drug and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (Pub. L. 104–170).

**DATES:** This regulation is effective August 7, 1998. Objections and requests

for hearings must be received by EPA on or before October 6, 1998.

**ADDRESSES:** Written objections and hearing requests, identified by the docket control number, [OPP–300697], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled ''Tolerance Petition Fees'' and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP–300697], must also be submitted 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, bring a copy of objections and hearing requests to Rm. 119, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect 5.1 or 6.1 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket control number [OPP–300697]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

**FOR FURTHER INFORMATION CONTACT:** By mail: Mary L. Waller, Registration Division 7505C, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Crystal Mall #2, Rm 247, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 308–9354, e-mail: waller.mary@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:** In the **Federal Register** of June 23, 1998 (63 FR 34176)(FRL–5795–1), EPA, issued a notice pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e) announcing the filing of pesticide petition (PP) 4F4380 for tolerances by AgrEvo USA Co., Little Falls Centre One, 2711 Centerville Rd., Wilmington, DE 19808. This notice included a summary of the petition prepared by AgrEvo USA Co., the registrant. There were no comments received in response to the notice of filing.

The petition requested that 40 CFR 180.484 be amended by establishing tolerances for residues of the fungicide flutolanil *N*-(3-(1-methylethoxy)phenyl)-2-(trifluoromethyl)benzamide and its metabolites converted to 2-(trifluoromethyl)benzoic acid and calculated as flutolanil in or on the raw agricultural commodities rice grain at 2.0 ppm and rice straw at 8.0 ppm and in or on the processed food or feed commodities rice hulls at 7.0 ppm and rice bran at 3.0 ppm when present therein as a result of application of the fungicide to growing crops.

## I. Risk Assessment and Statutory Findings

New section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. First, EPA determines the toxicity of pesticides based primarily on toxicological studies using laboratory animals. These studies address many adverse health effects, including (but not limited to) reproductive effects, developmental toxicity, toxicity to the nervous system, and carcinogenicity. Second, EPA examines exposure to the pesticide through the diet (e.g., food and drinking water) and through exposures that occur as a result of pesticide use in residential settings.

### *A. Toxicity*

1. *Threshold and non-threshold effects.* For many animal studies, a dose response relationship can be determined, which provides a dose that causes adverse effects (threshold effects) and doses causing no observed effects (the ''no-observed effect level'' or ''NOEL'').

Once a study has been evaluated and the observed effects have been determined to be threshold effects, EPA generally divides the NOEL from the study with the lowest NOEL by an uncertainty factor (usually 100 or more) to determine the Reference Dose (RfD). The RfD is a level at or below which daily aggregate exposure over a lifetime will not pose appreciable risks to human health. An uncertainty factor (sometimes called a ''safety factor'') of 100 is commonly used since it is assumed that people may be up to 10 times more sensitive to pesticides than the test animals, and that one person or subgroup of the population (such as infants and children) could be up to 10 times more sensitive to a pesticide than another. In addition, EPA assesses the potential risks to infants and children based on the weight of the evidence of the toxicology studies and determines whether an additional uncertainty factor is warranted. Thus, an aggregate daily exposure to a pesticide residue at or below the RfD (expressed as 100 percent or less of the RfD) is generally considered acceptable by EPA. EPA generally uses the RfD to evaluate the chronic risks posed by pesticide exposure. For shorter term risks, EPA calculates a margin of exposure (MOE) by dividing the estimated human exposure into the NOEL from the appropriate animal study. Commonly, EPA finds MOEs lower than 100 to be unacceptable. This hundredfold MOE is based on the same rationale as the hundredfold uncertainty factor.

Lifetime feeding studies in two species of laboratory animals are conducted to screen pesticides for cancer effects. When evidence of increased cancer is noted in these studies, the Agency conducts a weight of the evidence review of all relevant toxicological data including short-term and mutagenicity studies and structure activity relationship. Once a pesticide has been classified as a potential human carcinogen, different types of risk assessments (e.g., linear low dose extrapolations or MOE calculation based on the appropriate NOEL) will be carried out based on the nature of the carcinogenic response and the Agency's knowledge of its mode of action.

2. *Differences in toxic effect due to exposure duration.* The toxicological effects of a pesticide can vary with different exposure durations. EPA considers the entire toxicity data base,

and based on the effects seen for different durations and routes of exposure, determines which risk assessments should be done to assure that the public is adequately protected from any pesticide exposure scenario. Both short and long durations of exposure are always considered. Typically, risk assessments include ''acute'', ''short-term'', ''intermediate term'', and ''chronic'' risks. These assessments are defined by the Agency as follows.

Acute risk, by the Agency's definition, results from 1–day consumption of food and water, and reflects toxicity which could be expressed following a single oral exposure to the pesticide residues. High end exposure to food and water residues are typically assumed.

Short-term risk results from exposure to the pesticide for a period of 1–7 days, and therefore overlaps with the acute risk assessment. Historically, this risk assessment was intended to address primarily dermal and inhalation exposure which could result, for example, from residential pesticide applications. However, since enaction of FQPA, this assessment has been expanded to include both dietary and non-dietary sources of exposure, and will typically consider exposure from food, water, and residential uses when reliable data are available. In this assessment, risks from average food and water exposure, and high-end residential exposure, are aggregated. High-end exposures from all three sources are not typically added because of the very low probability of this occurring in most cases, and because the other conservative assumptions built into the assessment assure adequate protection of public health. However, for cases in which high-end exposure can reasonably be expected from multiple sources (e.g. frequent and widespread homeowner use in a specific geographical area), multiple high-end risks will be aggregated and presented as part of the comprehensive risk assessment/characterization. Since the toxicological endpoint considered in this assessment reflects exposure over a period of at least 7 days, an additional degree of conservatism is built into the assessment; i.e., the risk assessment nominally covers 1–7 days exposure, and the toxicological endpoint/NOEL is selected to be adequate for at least 7 days of exposure. (Toxicity results at lower levels when the dosing duration is increased.)

Intermediate-term risk results from exposure for 7 days to several months. This assessment is handled in a manner similar to the short-term risk assessment.

Chronic risk assessment describes risk which could result from several months to a lifetime of exposure. For this assessment, risks are aggregated considering average exposure from all sources for representative population subgroups including infants and children.

*B. Aggregate Exposure*

In examining aggregate exposure, FFDCA section 408 requires that EPA take into account available and reliable information concerning exposure from the pesticide residue in the food in question, residues in other foods for which there are tolerances, residues in groundwater or surface water that is consumed as drinking water, and other non-occupational exposures through pesticide use in gardens, lawns, or buildings (residential and other indoor uses). Dietary exposure to residues of a pesticide in a food commodity are estimated by multiplying the average daily consumption of the food forms of that commodity by the tolerance level or the anticipated pesticide residue level. The Theoretical Maximum Residue Contribution (TMRC) is an estimate of the level of residues consumed daily if each food item contained pesticide residues equal to the tolerance. In evaluating food exposures, EPA takes into account varying consumption patterns of major identifiable subgroups of consumers, including infants and children.The TMRC is a ''worst case'' estimate since it is based on the assumptions that food contains pesticide residues at the tolerance level and that 100% of the crop is treated by pesticides that have established tolerances. If the TMRC exceeds the RfD or poses a lifetime cancer risk that is greater than approximately one in a million, EPA attempts to derive a more accurate exposure estimate for the pesticide by evaluating additional types of information (anticipated residue data and/or percent of crop treated data) which show, generally, that pesticide residues in most foods when they are eaten are well below established tolerances.

Percent of crop treated estimates are derived from federal and private market survey data. Typically, a range of estimates are supplied and the upper end of this range is assumed for the exposure assessment. By using this upper end estimate of percent of crop treated, the Agency is reasonably certain that exposure is not understated for any significant subpopulation group. Further, regional consumption information is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups, to pesticide residues. For this pesticide, the most highly exposed population subgroup was not regionally based.

## II. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of flutolanil and to make a determination on aggregate exposure, consistent with section 408(b)(2), for time-limited tolerances for residues of flutolanil *N*-(3-(1-methylethoxy)phenyl)-2-(trifluoromethyl)benzamide and its metabolites converted to 2-(trifluoromethyl)benzoic acid and calculated as flutolanil in or on the raw agricultural commodities rice grain at 2.0 ppm and rice straw at 8.0 ppm and in or on the processed food or feed commodities rice hulls at 7.0 ppm and rice bran at 3.0 ppm. EPA's assessment of the dietary exposures and risks associated with establishing the tolerance follows.

*A. Toxicological Data Base*

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by flutolanil are discussed below.

1. *Acute studies.* Acute toxicity studies, except for the acute dermal study, were classified as Toxicity Category IV. The acute dermal study places technical flutolanil in Toxicity Category III (Caution). Data show minimal to slight irritation to the eye. Flutolanil is not a dermal sensitizer and is non-irritating to skin.

2. *Subchronic toxicity testing.* i. A subchronic feeding study in rats was conducted for 3 months. Flutolanil was orally administered at dose levels of 0, 500, 4,000 or 20,000 ppm (0, 37, 299 or 1,512 milligrams/kilograms/day (mg/kg/day) in males and 0, 44, 339 or 1,743 mg/kg/day in females). The systemic Lowest Observed Effect Level (LOEL) is 299 mg/kg/day based on increased absolute and relative liver weights. The systemic No Observed Effect Level (NOEL) is 37 mg/kg/day.

ii. A subchronic oral toxicity study in dogs was conducted for 90 days. Flutolanil was administered orally via

gelatin capsules at dose levels of 0, 80, 400 or 2,000 mg/kg/day. The LOEL for this study was 400 mg/kg/day based on systemic signs of toxicity in the form of enlarged livers and increased severity of glycogen deposition in both males and females. The NOEL was 80 mg/kg/day.

iii. In a 21–day repeated dose dermal toxicity study, flutolanil was administered dermally to rats in 15 applications at doses of 0 or 1,000 mg/kg/day. No LOEL was established for systemic or dermal toxicity. The NOEL for dermal effects was > 1,000 mg/kg/day (limit dose) and the systemic toxicity NOEL was also > 1,000 mg/kg/day (limit dose).

3. *Chronic toxicity studies.* A 2–year dog feeding study was conducted using doses of 0, 50, 250, or 1,250 mg/kg/day. The LOEL is 250 mg/kg/day based on evidence of systemic toxicity in the form of increased incidence of clinical toxic signs (emesis, salivation and soft stool), lower body weight gains and decreased food consumption. The NOEL is 50 mg/kg/day.

4. *Carcinogenicity.* i. In a 2–year combined chronic toxicity/carcinogenicity study, technical grade flutolanil was administered in the diet to rats at dose levels of 0, 40, 200, 2,000, or 10,000 ppm (0, 1.8, 8.7, 86.9, or 460 mg/kg/day for males and 0, 2.1, 10, 103.1 or 535.8 mg/kg/day for females. The LOEL for systemic toxicity for males is 460.5 mg/kg/day and 535.8 mg/kg/day for females based on reduced body weight and body weight gain in males, along with decreased absolute and relative weights in females. The NOEL for systemic toxicity is 86.9 mg/kg/day for males and 103.1 mg/kg/day for females. Flutolanil was not carcinogenic under the conditions of this study.

ii. A carcinogenicity study in mice was conducted for 78 weeks in which technical flutolanil was administered in the diet at 0, 300, 1,500, 7,000 or 30,000 ppm (0, 32, 162, 735, or 3,333 mg/kg/day for males and 0, 34, 168, 839, or 3,676 mg/kg/day for females). The LOEL for systemic toxicity is 3,333 mg/kg/day in males and 839 mg/kg/day for females based on significant decreases in body weight gains in the high dose tested. The NOEL is 735 mg/kg/day in males and 162 mg/kg/day in females. Flutolanil was not carcinogenic under the conditions of this study.

5. *Developmental toxicity.* i. In a developmental toxicity study in rats, flutolanil was administered orally via oral gavage at dose levels of 0, 40, 200 or 1,000 mg/kg/day on gestational days (GDs) 6–15, inclusive. No maternal toxicity was observed at any dose level. No compound-related effects were observed at any dose level for developmental toxicity. No Maternal LOEL was established. The maternal NOEL is > 1,000 mg/kg/day (limit dose). A developmental LOEL was not established. The developmental NOEL is > 1,000 mg/kg/day (limit dose).

ii. In a developmental toxicity study, rabbits were administered flutolanil via oral gavage at dose levels of 0, 40, 200 or 1,000 mg/kg/day on GDs 6–18, inclusive. No significant maternal or developmental toxicity was noted at the dose levels tested. The maternal toxicity NOEL is > 1,000 mg/kg/day, the developmental toxicity LOEL is > 1,000 mg/kg/day and the developmental toxicity NOEL is > 1,000 mg/kg/day.

6. *Reproductive toxicity.* i. In a three-generation reproduction and developmental study, flutolanil was administered in the diet to rats at 0, 1,000 or 10,000 ppm (equivalent to 0, 63.7 or 661.8 mg/kg/day in males and 0, 86.3 or 880.8 mg/kg/day for females). For the reproduction segment of this study, flutolanil at the highest levels produced offspring systemic toxicity in the form of reduced pup body weights and body weight gains in both males and females. There was no treatment related clinical toxicity signs, mortality, differences in food consumption or efficiency and water consumption. No treatment related effects were noted on mating performance, duration of pregnancy and litter size. Provided gross examination data was limited. Organ weights showed increases in absolute and relative liver weights in the high dose males and females across generations. This effect is consistent with observations found in other chronic toxicity studies. The offspring systemic toxicity LOEL is 661.8 mg/kg/day. The offspring systemic toxicity NOEL is 63.7 mg/kg/day. For the developmental segment, there may have been an effect in both dose groups in the form of reduced fetal body weights. Fetal examinations showed no treatment related effects on gross or skeletal examinations. Visceral examination revealed a possible treatment related increase in enlargement of the renal pelvis (statistically significant in the high dose group). These studies were classified as supplementary due to deficiencies. A discussion of the study is included because the reference dose (RfD) was established based on this study.

ii. In a two-generation reproductive toxicity study, technical flutolanil was administered daily in the diet to rats at 0, 200, 2,000 or 20,000 ppm (during premating, for males 0, 16, 159, or 1,625 mg/kg/day and for females 0, 19, 190, or 1,936 mg/kg/day. No compound-related parental effects were observed in either sex or generation. Consequently, the LOEL for parental toxicity was not determined and the NOEL for parental toxicity is > 1,625 mg/kg/day (exceeds limit dose).

7. *Mutagenicity.* Mutagenicity studies included: *In vitro* Aberrations in Don Cells, Mouse Micronucleus, Mammalian Cells in Culture Cytogenetics Assay in Human Lymphocytes, *Salmonella* and *E. coli* Reverse Mutation Assays, *In vitro* Unscheduled DNA Synthesis Assays in Primary Rat Hepatocytes, and Gene Mutation in Cultured Mammalian Cells (Mouse Lymphoma Cells). The *In vitro* Aberrations in Don Cells study was positive for inducing chromosomal aberrations in cultured Chinese hamster lung cells in the presence of metabolic activation. All other studies were negative.

8. *Metabolism.* In a metabolism study in rats, disposition and metabolism of 14C-flutolanil was investigated at a low oral dose of 20 mg/kg/day, repeated low oral doses of 20 mg/kg for 14 days, and a single high dose of 1,000 mg/kg. Absorption of flutolanil was incomplete at the single low and high doses, but appeared to be increased after repeated low oral dosing. There were no appreciable tissue levels of flutolanil at study termination. At the single low oral dose, excretion in urine and feces was equivalent, with approximately 40% of an administered dose excreted via each route in male and female rats. Repeated low dosing resulted in an increased percentage in urine (approximately 70%) with a corresponding decrease in fecal excretion. At the single high dose, the majority of the radioactivity (66–78%) was excreted via the feces, with less than 10% found in urine. Identification of urinary and fecal metabolites by TLC showed the presence of the major metabolite M4 (desisopropylflutolanil) in urine in all dose groups. In feces, radioactivity was excreted mainly as parent compound, with limited conversion to M4.

9. *Neurotoxicity.* There have been no clinical neurotoxic signs or other types of neurotoxicity observed in any of the evaluated toxicology studies.

10. *Other toxicological considerations.* Flutolanil has a complete data base and no other toxicological concerns have been identified in the evaluated studies.

*B. Toxicological Endpoints*

1. *Acute toxicity.* EPA has determined that data do not indicate the potential for adverse effects after a single dietary exposure.

2. *Short - and intermediate - term toxicity.* No appropriate endpoints were

identified for short - term (1–7 days), or intermediate-term (1 week to several months) exposure.

3. *Chronic toxicity*. EPA has established the Reference dose (RfD) for flutolanil at 0.63 mg/kg/day. This RfD is based on the reproductive toxicity study in rats with a NOEL of 63 mg/kg/day and an uncertainty factor of 100.

4. *Carcinogenicity*. Using its Guidelines for Carcinogen Risk Assessment published September 24, 1986 (51 FR 33992), EPA has classified flutolanil as a Group E chemical--''Evidence of Non-carcinogenicity for Humans'' --based on the results of carcinogenicity studies in two species. The doses tested are adequate for identifying a cancer risk.

*C. Exposures and Risks*

1. *From food and feed uses.* Tolerances have been established (40 CFR 180.484 and 185.3385) for flutolanil *N*-(3-(1-methylethoxy)phenyl)-2-(trifluoromethyl)benzamide and its metabolites converted to 2-(trifluoromethyl)benzoic acid and calculated as flutolanil in or on the raw agricultural commodities peanuts, peanut hay and hulls, meat, milk, poultry and eggs and the processed food commodity peanut meal. Time-limited tolerances were previously established for the raw agricultural commodities rice grain and rice straw and for the processed food commodities rice hulls and rice bran. These time-limited tolerances expired and are being reestablished in today's action. Risk assessments were conducted by EPA to assess dietary exposures and risks from flutolanil as follows:

i. *Acute exposure and risk.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1 day or single exposure. EPA did not identify an acute dietary toxicological endpoint and thus, flutolanil is not considered to pose an acute dietary risk.

ii. *Chronic exposure and risk.* Chronic dietary (food only) exposure analyses were performed using tolerance level residues and 100 percent crop treated information to estimate the Theoretical Maximum Residue Contribution (TMRC) for the general population and 22 subgroups. The existing flutolanil tolerances and the added tolerances for rice commodities result in an exposure that is equivalent to 0.2% of the RfD for the U.S. population and 0.5% for children (1–6 years old). Even without refinement, the chronic dietary risk exposure to flutolanil appears to be minimal for use of flutolanil on rice and does not exceed the RfD for any of the subgroups.

2. *From drinking water.* There is no established Maximum Contaminant Level for residues of flutolanil in drinking water. No Health Advisory Levels for flutolanil in drinking water have been established. The ''Pesticides in Groundwater Database'' has no information concerning flutolanil. Estimates of ground and surface water concentrations for flutolanil were determined based on a maximum annual application rate of 1.0 pound active ingredient/acre. The surface water numbers are based on the results of a Generic Environmental Concentration (GENEECX/beta version) model. The modeling results indicated that flutolanil has the potential to contaminate surface waters through erosion of soil particles to which flutolanil is adsorbed or through off-site draining of rice paddy water containing the chemical. The ground water numbers are based on a screening tool, SCI-GROW, which tends to overestimate the true concentration in the environment. These modeling results indicate that flutolanil will not be found in significant concentrations in groundwater. For acute effects, the surface water estimated environmental concentration (EEC) was determined to be 565 parts per billion (ppb). For chronic effects the surface water EEC was 542 ppb. The estimated groundwater concentration for both acute and chronic effects is 0.399 ppb

i. *Acute exposure and risk.* No acute risk is expected from exposure to flutolanil.

ii. *Chronic exposure and risk.* Chronic exposure is calculated based on surface water. Chronic exposure from ground water is lower. Chronic exposure (mg/kg/day) is calculated by multiplying the concentration in water in mg/l by the daily consumption (2l/day for male and female adults and 1l/day for children) and dividing this figure by average weight (70 kg for males, 60 kg for females and 10 kg for children). For adult males, exposure is 0.015 mg/kg/day; for adult females, 0.018 mg/kg/day; and for children, 0.054 mg/kg/day. Chronic risk (non-cancer) from surface water, using EPA's conservative model for estimating exposure through surface water, was calculated to be 2.4% of the Rfd for males, 2.9% for females and 8.6% for children.

3. *From non-dietary exposure.* Flutolanil is not currently registered for use on non-food sites. Therefore, acute, short - and intermediate-term and chronic (non-cancer) occupational or residential risk assessments are not required

4. *Cumulative exposure to substances with common mechanism of toxicity.* Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.'' The Agency believes that ''available information'' in this context might include not only toxicity, chemistry, and exposure data, but also scientific policies and methodologies for understanding common mechanisms of toxicity and conducting cumulative risk assessments. For most pesticides, although the Agency has some information in its files that may turn out to be helpful in eventually determining whether a pesticide shares a common mechanism of toxicity with any other substances, EPA does not at this time have the methodologies to resolve the complex scientific issues concerning common mechanism of toxicity in a meaningful way. EPA has begun a pilot process to study this issue further through the examination of particular classes of pesticides. The Agency hopes that the results of this pilot process will increase the Agency's scientific understanding of this question such that EPA will be able to develop and apply scientific principles for better determining which chemicals have a common mechanism of toxicity and evaluating the cumulative effects of such chemicals. The Agency anticipates, however, that even as its understanding of the science of common mechanisms increases, decisions on specific classes of chemicals will be heavily dependent on chemical specific data, much of which may not be presently available.

Although at present the Agency does not know how to apply the information in its files concerning common mechanism issues to most risk assessments, there are pesticides as to which the common mechanism issues can be resolved. These pesticides include pesticides that are toxicologically dissimilar to existing chemical substances (in which case the Agency can conclude that it is unlikely that a pesticide shares a common mechanism of activity with other substances) and pesticides that produce a common toxic metabolite (in which case common mechanism of activity will be assumed).

EPA does not have, at this time, available data to determine whether flutolanil has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides

for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, flutolanil does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that flutolanil has a common mechanism of toxicity with other substances.

*D. Aggregate Risks and Determination of Safety for U.S. Population*

1. *Acute risk.* No acute dietary risks were identified.

2. *Chronic risk.* Using the unrefined exposure assumptions described above, EPA has concluded that aggregate exposure to flutolanil from food will utilize 0.2% of the RfD for the U.S. population. The major identifiable subgroup with the highest aggregate exposure is children (1–6 years old) which is discussed below. EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Despite the potential for exposure to flutolanil in drinking water, EPA does not expect the aggregate exposure to exceed 100% of the RfD.

3. *Short- and intermediate-term risk.* Short- and intermediate-term aggregate exposure takes into account chronic dietary food and water (considered to be a background exposure level) plus indoor and outdoor residential exposure. No short- or intermediate-term risk is expected from the use of flutolanil.

4. *Aggregate cancer risk for U.S. population.* Flutolanil is classified as Category E: not carcinogenic in two acceptable animal studies. Since flutolanil is not carcinogenic, there would be no expected risk of cancer in humans from the use of flutolanil.

5. *Conclusion.* EPA concludes that there is a reasonable certainty that no harm will result from aggregate exposure to flutolanil residues.

*E. Aggregate Risks and Determination of Safety for Infants and Children*

1. *Safety factor for infants and children*— i. *In general.* In assessing the potential for additional sensitivity of infants and children to residues of flutolanil, EPA considered data from developmental toxicity studies in the rat and rabbit and a three-generation reproduction study in the rat. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from maternal pesticide exposure during gestation. Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability of mating animals and data on systemic toxicity.

FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for pre-and post-natal toxicity and the completeness of the database unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a MOE analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans. EPA believes that reliable data support using the standard uncertainty factor (usually 100 for combined inter- and intra-species variability) and not the additional tenfold MOE/uncertainty factor when EPA has a complete data base under existing guidelines and when the severity of the effect in infants or children or the potency or unusual toxic properties of a compound do not raise concerns regarding the adequacy of the standard MOE/safety factor.

ii. *Developmental toxicity studies*— a. *Rats.* No maternal toxicity was observed at any dose level. No compound-related effects were observed at any dose level for developmental toxicity. A maternal LOEL was not established. The maternal NOEL is ≧ 1,000 mg/kg/day (limit dose). A developmental LOEL was not established. The developmental NOEL is ≧ 1,000 mg/kg/day (limit dose).

b. *Rabbits.* In the developmental toxicity study in rabbits, no significant maternal or developmental toxicity was noted at the dose levels tested. The maternal toxicity LOEL is > 1,000 mg/kg/day and the maternal toxicity NOEL is ≧ 1,000 mg/kg/day. The developmental toxicity LOEL is > 1,000 mg/kg/day and the developmental toxicity NOEL is ≧ 1,000 mg/kg/day.

iii. *Reproductive toxicity study*— a. *Rats.* In the 3-generation reproduction and development study in rats, systemic toxicity was noted in offspring at the highest dose in the form of reduced pup body weights and body weight gains during the lactation period and subsequent reduced adult body weights in both males and females. There were no treatment related clinical toxicity signs, mortality, differences in food consumption or efficiency and water consumption. No treatment related effects were noted on mating performance, duration of pregnancy and litter size. Organ weights showed increases in absolute and relative liver weights in the high dose males and females across generations. This effect is consistent with observations found in other chronic toxicity studies. The offspring systemic toxicity LOEL is 661.8 mg/kg/day. The offspring systemic toxicity NOEL is 63.7 mg/kg/day. For the developmental segment, there may have been an effect in both dose groups in the form of reduced fetal body weights. Fetal examinations showed no treatment related effects on gross or skeletal examinations. Visceral examination revealed a possible treatment related increase in enlargement of the renal pelvis in the high dose group.

b. *Rats.* In a two-generations reproductive toxicity study, no compound-related parental effects were observed in either sex or generation. The LOEL for parental toxicity was not determined and the NOEL for parental toxicity is > 1,625 mg/kg/day (exceeds limit dose).

iv. *Pre- and post-natal sensitivity.* The pre- and post-natal toxicology data base for flutolanil is complete with respect to current toxicological data requirements. Based on the developmental and reproductive toxicity studies discussed above, there does not appear to be an extra sensitivity for pre- or post-natal effects.

v. *Conclusion.* EPA concludes that reliable data support use of the hundredfold uncertainty factor and that an additional tenfold factor is not needed to ensure the safety of infants and children from dietary exposure.

2. *Acute risk.* No acute dietary risk has been identified.

3. *Chronic risk.* Using the conservative exposure assumptions described above, EPA has concluded that exposure to flutolanil from food will utilize 0.2% of the Rfd for the U.S. population and 0.5% for children 1–6 years old. EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Despite the potential for exposure to flutolanil in drinking water and from non-dietary, non-occupational exposure, EPA does not expect the aggregate exposure to exceed 100% of the RfD. EPA concludes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to flutolanil residues.

4. *Short- or intermediate-term risk.* No appropriate endpoints were identified for short- or intermediate-term exposure, therefore, no unreasonable adverse effects are expected to result from the use of flutolanil.

5. *Conclusion*. EPA concludes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to flutolanil residues.

## III. Other Considerations

### *A. Endocrine Disrupter Effects*

EPA is required to develop a screening program to determine whether certain substances (including all pesticides and inerts) ''may have an effect in humans that is similar to an effect produced by a naturally occurring estrogen, or such other endocrine effect ....'' The Agency is currently working with interested stakeholders, including other government agencies, public interest groups, industry and research scientists in developing a screening and testing program and a priority setting scheme to implement this program. Congress has allowed 3 years from the passage of FQPA (August 3, 1999) to implement this program. At that time, EPA may require further testing of this active ingredient and end use products for endocrine disrupter effects.

### *B. Metabolism In Plants and Animals*

1. *Plants*. Based on the three metabolism studies on peanuts, rice and cucumbers (which indicate a similar metabolic route for crops in three different crop groups), the nature of the residues is adequately understood. The residues of concern for flutolanil consist of flutolanil *N*-(3-(1-methylethoxy)phenyl)-2-trifluoromethyl)benzamide and identified metabolites containing the common moiety, 2-trifluoromethyl benzanilide. The tolerance expression takes cognizance of this and is expressed in the terms of the analytical derivative of this common moiety. The residue of concern in plants consists of flutolanil and metabolites convertible to the methyl ester of 2-trifluoromethyl benzoic acid.

2. *Animals*. The nature of the residue in animals is adequately understood. The residues of concern in animal commodities are flutolanil and identified metabolites containing the common moiety, 2-trifluoromethyl benzanilide and that can be converted to the methyl ester of 2-trifluoromethyl benzoic acid. .

### *C. Analytical Enforcement Methodology*

The residue analytical method will be forwarded to FDA for publication after the Agency has concluded its review of the independent validation of the method which is currently under review. This method is available for limited distribution from: By mail, Calvin Furlow, 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. Office location and telephone number: Crystal Mall #2, Rm. 101FF, 1921 Jefferson Davis Hwy., Arlington, VA 22202 (703) 305–5229. The method has the following disclaimer: This method is for use only by experienced chemists who have demonstrated knowledge of the principles of trace organic analysis; and have proven skills and abilities to run a complex residue analytical method obtaining accurate results at the part per billion level. Users of this method are expected to perform additional method validation prior to using the method for either monitoring or enforcement. The method can detect gross misuse.

### *D. Magnitude of Residues*

The residues of flutolanil and its metabolites converted to 2-(trifluoromethyl)benzoic acid resulting from the use on rice will not exceed 2.0 ppm in rice grain, 8.0 ppm in rice straw, 7.0 ppm in rice hulls or 3.0 ppm in rice bran. Residue data for animal commodities indicated that the currently established tolerances are adequate to cover the use of flutolanil on rice.

### *E. International Residue Limits*

There are no Codex, Canadian or Mexican residue limits established for flutolanil on rice. Therefore, no compatibility problems exist for the proposed tolerances on rice.

### *F. Rotational Crop Restrictions.*

Rotational crop restrictions for rice include: 240 day restriction for soybeans or grain sorghum and 12 months for all other crops except peanuts and rice.

## IV. Conclusion

Therefore, time-limited tolerances, to expire on December 31, 2000, are established for the residues of the fungicide flutolanil *N*-(3-(1-methylethoxy)phenyl)-2-(trifluoromethyl)benzamide and its metabolites converted to 2-(trifluoromethyl)benzoic acid and calculated as flutolanil in or on the raw agricultural commodities rice grain at 2.0 ppm and rice straw at 8.0 ppm and in or on the processed food or feed commodities rice hulls at 7.0 ppm and rice bran at 3.0 ppm when present therein as a result of application of the fungicide to growing crops. The tolerances are time-limited to allow the Agency adequate time to review additional residue studies and to review the method validation for flutolanil which have already been submitted.

## V. Objections and Hearing Requests

The new FFDCA section 408(g) provides essentially the same process for persons to ''object'' to a tolerance regulation issued by EPA under new section 408(e) and (l)(6) as was provided in the old section 408 and in section 409. However, the period for filing objections is 60 days, rather than 30 days. EPA currently has procedural regulations which govern the submission of objections and hearing requests. These regulations will require some modification to reflect the new law. However, until those modifications can be made, EPA will continue to use those procedural regulations with appropriate adjustments to reflect the new law.

Any person may, by October 6, 1998, file written objections to any aspect of this regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issues on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the requestor (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as Confidential Business Information (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not

contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

## VI. Public Record and Electronic Submissions

EPA has established a record for this rulemaking under docket control number [OPP–300697] (including any comments and data submitted electronically). 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 public record is located in Room 119 of the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments may 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.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the Virginia address in ''ADDRESSES'' at the beginning of this document.

## VII. Regulatory Assessment Requirements

This final rule establishes time-limited tolerances under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled Regulatory Planning and Review (58 FR 51735, October 4, 1993). This final rule 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) (Pub. 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), or 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 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, since these tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the time-limited tolerances in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. Nevertheless, the Agency has previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance actions was published on May 4, 1981 (46 FR 24950) and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

## VIII. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit 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 United States prior to publication of the rule in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

### 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 185*

Environmental protection, Food additives, Pesticides and pests.

Dated: July 29, 1998.

**Arnold E. Layne,**

*Acting Director, Registration Division, Office of Pesticide Programs.*

Therefore, 40 CFR chapter I is 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.

b. Section 180.484 is amended as follows:

i. By adding a paragraph heading ''General'' to paragraph (a).

ii. By redesignating the text in paragraph (a) as paragraph (a)(1), ''Permanent tolerances.''

iii. By adding paragraph (a)(2).

iv. By adding a heading to paragraph (b) and removing and reserving the text of the paragraph.

v. By adding paragraphs (c) and (d) with headings and reserving the text of those paragraphs.

The added text reads as follows:

### § 180.484 Flutolanil; tolerances for residues.

(a) *General* — (1) *Permanent tolerances.* * * *

(2) *Time-limited tolerances.* Time-limited tolerances are established for the residues of the fungicide flutolanil *N*-(3-(1-methylethoxy)phenyl)-2-(trifluoromethyl)benzamide and its metabolites converted to 2-(trifluoromethyl) benzoic acid and calculated as flutolanil in or on the following agricultural commodities:

| Commodity | Parts per million | Expiration/ Revocation Date |
|---|---|---|
| Rice, grain | 2.0 | 12/31/00 |
| Rice, straw | 8.0 | 12/31/00 |
| Rice, bran | 3.0 | 12/31/00 |
| Rice, hulls | 7.0 | 12/31/00 |

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

## PART 185 —[AMENDED]

2. In part 185:

a. The authority citation for part 185 continues to read as follows:

**Authority:** 21 U.S.C. 348.

### § 180.3385 [Removed]

b. In § 185.3385, in the table to paragraph (a), the entry for ''peanut meal'' is transferred and alphabetically added to the table in paragraph (a)(1) of § 180.484. The remainder of § 185.3385 is removed.

[FR Doc. 98–20899 Filed 8–6–98; 8:45 am]

BILLING CODE 6560–50–F .

## FEDERAL EMERGENCY MANAGEMENT AGENCY

### 44 CFR Part 64

**[Docket No. FEMA–7693]**

### List of Communities Eligible for the Sale of Flood Insurance

**AGENCY:** Federal Emergency Management Agency (FEMA).

**ACTION:** Final rule.

**SUMMARY:** This rule identifies communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain floodplain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

**EFFECTIVE DATES:** The dates listed in the third column of the table.

**ADDRESSES:** Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the NFIP at: Post Office Box 6464, Rockville, MD 20849, (800) 638–6620.

**FOR FURTHER INFORMATION CONTACT:** Robert F. Shea, Jr., Division Director, Program Implementation Division, Mitigation Directorate, 500 C Street SW., room 417, Washington, DC 20472, (202) 646–3619.

**SUPPLEMENTARY INFORMATION:** The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Associate Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map (FHBM) or Flood Insurance Rate Map (FIRM). The date of the flood map, if one has been published, is indicated in the fourth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, 42 U.S.C. 4012(a), requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard areas shown on the map.

The Associate Director finds that the delayed effective dates would be contrary to the public interest. The Associate Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

#### National Environmental Policy Act

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

#### Regulatory Flexibility Act

The Associate Director certifies that this rule will not have a significant economic impact on a substantial number of small entities in accordance with the Regulatory Flexibility Act, 5 U. S. C. 601 *et seq.*, because the rule creates no additional burden, but lists those communities eligible for the sale of flood insurance.

#### Regulatory Classification

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

#### Paperwork Reduction Act

This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

#### Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, October 26, 1987, 3 CFR, 1987 Comp., p. 252.

#### Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778, October 25, 1991, 56 FR 55195, 3 CFR, 1991 Comp., p. 309.

#### List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

### PART 64—[AMENDED]

1. The authority citation for Part 64 continues to read as follows:

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

#### § 64.6 [Amended]

2. The tables published under the authority of § 64.6 are amended as follows:

| State/Location | Community No. | Effective date of eligibility | Current effective map date |
|---|---|---|---|
| **New Eligibles—Emergency Program** | | | |
| Alaska: Shishmaref, city of, Nome Division | 020084 | June 5, 1998. | |
| Georgia: Metter, city of, Chandler County | 130564 | .....do. | |
| Oglethorpe County, unincorporated | 130370 | June 10, 1998 | May 28, 1976. |
| Arkansas: Burdette, city of, Mississippi County | 050602 | June 15, 1998.. | |
| Illinois: Witt, city of, Montgomery County | 171075 | .....do | |
| Georgia: Ocilla, city of, Irwin County | 130565 | June 17, 1998. | |
| Kentucky: Jeffersonville, city of Montgomery County | 210358 | June 29, 1998 | Sept. 8, 1978. |
| Florida: Weeki Wachee, city of, Hernando County | 120413 | June 30, 1998 | July 23, 1976. |
| Texas: Jack County, unincorporated areas | 480377 | .....do. | |
| **New Eligibles—Regular Program** | | | |
| Pennsylvania: Seward, borough of, Westmoreland County. | 422738 | June 9, 1998 | August 5, 1997. |

| State/Location | Community No. | Effective date of eligibility | Current effective map date |
|---|---|---|---|
| Texas: Bellville, city of, Austin County | 481095 | June 17, 1998 | Jan. 17, 1990. |
| Florida: Weston, city of, Broward County [1] | 120678 | June 29, 1998 | Oct. 2, 1997. |
| Michigan: Auburn, city of, Bay County | 260886 | .....do | NSFHA. |
| Minnesota: St. Clair, city of, Blue Earth County | 270033 | June 30, 1998 | NSFHA. |
| New Mexico: Sandoval County, unincorporated areas | 350055 | .....do | July 16, 1996. |
| **Reinstatements** | | | |
| Texas: Shamrock, city of, Wheeler County | 480656 | December 26, 1985, Emerg.; September 2, 1988, Susp.; June 9, 1998, Rein. | Oct. 22, 1976. |
| New York: Redfield, town of, Oswego County | 361265 | September 17, 1985, Emerg.; April 1, 1991, Reg.; November 4, 1992, Susp.; June 15, 1998, Rein. | April 1, 1991. |
| Pennsylvania: Winslow, township of, Saginaw County | 421215 | December 30, 1976, Emerg.; July 3, 1990, Reg.; February 18, 1998, Susp.; June 19, 1998, Rein.. | Feb. 18, 1998. |
| New Hampshire: Rindge, town of, Cheshire County | 330189 | October 11, 1977, Emerg.; July 21, 1978, Reg.; May 18, 1998, Susp.; June 26, 1998, Rein. | May 18, 1988. |
| **Regular Program Conversions** | | | |
| **Region II** | | | |
| New York: | | | |
| Amityville, village of, Suffolk County | 360788 | June 4, 1998, Suspension Withdrawn. | May 4, 1998. |
| Asharoken, village of, Suffolk County | 365333 | .....do | Do. |
| Babylon, town of, Suffolk County | 360790 | .....do | Do. |
| Babylon, village of, Suffolk County | 360791 | .....do | Do. |
| Belle Terre, village of, Suffolk County | 361532 | .....do | Do. |
| Bellport, village of, Suffolk County | 361069 | .....do | Do. |
| Brightwaters, village of, Suffolk County | 361342 | .....do | Do. |
| Brookhaven, town of, Suffolk County | 365334 | .....do | Do. |
| Dering Harbor, village of, Suffolk County | 361524 | Do.. | |
| | D.....do | | |
| East Hampton, town of, Suffolk County | 360794 | .....do | Do. |
| East Hampton, village of, Suffolk County | 360795 | .....do | Do. |
| Greenport, village of, Suffolk County | 361004 | .....do | Do. |
| Head of the Harbor, village of, Suffolk County | 361513 | .....do | Do. |
| Huntington, town of, Suffolk County | 360796 | .....do | Do. |
| Huntington Bay, village of, Suffolk County | 361543 | .....do | Do. |
| Islip, town of, Suffolk County | 365337 | .....do | Do. |
| Lindenhurst, village of, Suffolk County | 360798 | .....do | Do. |
| Lloyd Harbor, village of, Suffolk County | 360799 | .....do | Do. |
| Nissequogue, village of, Suffolk County | 361510 | .....do | Do. |
| North Haven, village of, Suffolk County | 360800 | .....do | Do. |
| Northport, village of, Suffolk County | 360801 | .....do | Do. |
| Ocean Beach, village of, Suffolk County | 365339 | .....do | Do. |
| Old Field, village of, Suffolk County | 361545 | .....do | Do. |
| Patchogue, village of, Suffolk County | 360803 | .....do | Do. |
| Port Jefferson, village of, Suffolk County | 360804 | .....do | Do. |
| Quogue, village of, Suffolk County | 360806 | .....do | Do. |
| Riverhead, town of, Suffolk County | 360805 | .....do | Do. |
| Sag Harbor, village of, Suffolk County | 360807 | .....do | Do. |
| Saltaire, village of, Suffolk County | 365341 | .....do | Do. |
| Shelter Island, town of, Suffolk County | 360809 | .....do | Do. |
| Shoreham, village of, Suffolk County | 361506 | .....do | Do. |
| Smithtown, town of, Suffolk County | 360810 | .....do | Do. |
| Southampton, town of, Suffolk County | 365342 | .....do | Do. |
| Southampton, village of, Suffolk County | 365343 | .....do | Do. |
| Southold, town of, Suffolk County | 360813 | .....do | Do. |
| The Branch, village of, Suffolk County | 361551 | .....do | Do. |
| West Hampton Dunes, village of, Suffolk County | 361649 | .....do | Do. |
| Westhampton Beach, village of, Suffolk County | 365345 | .....do | Do. |
| **Region III** | | | |
| Pennsylvania: | | | |
| Conewago, township of, Adams County | 421248 | June 8, 1998, Suspension Withdrawn. | June 8, 1998. |
| McSherrystown, borough of, Adams County | 421245 | .....do | Do. |
| **Region V** | | | |
| Michigan: | | | |
| Bay De Noc, township of, Delta County | 260685 | .....do | Do. |
| Brampton, township of, Delta County | 260386 | .....do | Do. |
| Cornell, township of, Delta County | 260768 | .....do | Do. |
| Ensign, township of, Delta County | 260752 | .....do | Do. |
| Escanaba, city of, Delta County | 260061 | .....do | Do. |
| Escanaba, township of, Delta County | 260387 | .....do | Do. |
| Fairbanks, township of, Delta County | 260804 | .....do | Do. |
| Ford River, township of, Delta County | 260062 | .....do | Do. |
| Garden, township of, Delta County | 260763 | .....do | Do. |

| State/Location | Community No. | Effective date of eligibility | Current effective map date |
|---|---|---|---|
| Gladstone, city of, Delta County | 260267 | do | Do. |
| Masonville, township of, Delta County | 260687 | do | Do. |
| Nahma, township of, Delta County | 260688 | do | Do. |
| Wells, township of, Delta County | 260388 | do | Do. |
| Ohio: West Milton, village of, Miami County | 390403 | do | Do. |
| **Region VI** | | | |
| Louisiana: Calcasieu Parish, unincorporated areas | 220037 | do | Do. |
| Oklahoma: Delaware County, unincorporated areas. | 400502 | do | Do. |
| **Region VIII** | | | |
| Montana: Billings, city of, Yellowstone County | 300085 | do | Do. |
| Utah: Elsinore, town of, Sevier County | 490125 | do | Do. |
| **Region IX** | | | |
| Arizona: Yavapai County, unincorporated areas | 040093 | do | Do. |
| Guam: Territory of Guam | 660001 | do | Do. |
| Nevada: Nye County, unincorporated areas | 320018 | do | Do. |
| **Region X** | | | |
| Oregon: Deschutes County, unincorporated areas | 410055 | do | Do. |
| **Region I** | | | |
| Vermont: Bradford, village of, Orange County | 500234 | June 22, 1998, Suspension Withdrawn. | June 22, 1998. |
| **Region II** | | | |
| New York: | | | |
| Elma, town of, Erie County | 360239 | do | Do. |
| Henrietta, town of, Monroe County | 360419 | do | Do. |
| **Region IV** | | | |
| Florida: Stuart, city of, Martin County | 120165 | do | Do. |
| Georgia: | | | |
| Alpharetta, city of, Fulton County | 130084 | do | Do. |
| Atlanta, city of, Fulton and DeKalb Counties | 135157 | do | Do. |
| College Park, city of, Fulton County | 130086 | do | Do. |
| East Point, city of, Fulton County | 130087 | do | Do. |
| Fairburn, city of, Fulton County | 130314 | do | Do. |
| Fulton County, unincorporated areas | 135160 | do | Do. |
| Hapeville, city of, Fulton County | 130502 | do | Do. |
| Mountain Park, city of, Fulton County | 130315 | do | Do. |
| Palmetto, city of, Fulton County | 130239 | do | Do. |
| Roswell, city of, Fulton County | 130088 | do | Do. |
| Union City, city of, Fulton County | 130316 | do | Do. |
| North Carolina: | | | |
| Iredell County, unincorporated areas | 370313 | do | Do. |

[1] The City of Weston has adopted the Broward County (CID #125093) Flood Insurance Rate Map dated October 2, 1997, panels 190, 195, 280, and 285.

Code for reading third column: Emerg.-Emergency; Reg.-Regular; Rein.-Reinstatement; Susp.-Suspension; With.-Withdrawn; NSFHA—Non Special Flood Hazard Area.

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

Issued: July 29, 1998.

**Michael J. Armstrong,**

*Associate Director for Mitigation.*

[FR Doc. 98–21197 Filed 8–6–98; 8:45 am]

BILLING CODE 6718–05–P

## FEDERAL EMERGENCY MANAGEMENT AGENCY

## 44 CFR Part 64

**[Docket No. FEMA–7694]**

## Suspension of Community Eligibility

**AGENCY:** Federal Emergency Management Agency, FEMA.

**ACTION:** Final rule.

**SUMMARY:** This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the **Federal Register**.

**EFFECTIVE DATES:** The effective date of each community's suspension is the third date (''Susp.'') listed in the third column of the following tables.

**ADDRESSES:** If you wish to determine whether a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office or the NFIP servicing contractor.

**FOR FURTHER INFORMATION CONTACT:** Robert F. Shea Jr., Division Director, Program Implementation Division, Mitigation Directorate, 500 C Street, SW., Room 417, Washington, DC 20472, (202) 646–3619.

**SUPPLEMENTARY INFORMATION:** The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return,

communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage as authorized under the National Flood Insurance Program, 42 U.S.C. 4001 *et seq.*, unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59 *et seq.* Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register**.

In addition, the Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Insurance Rate Map (FIRM). The date of the FIRM if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Associate Director finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives a 6-month, 90-day, and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications have been made, this final rule may take effect within less than 30 days.

## National Environmental Policy Act

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

## Regulatory Flexibility Act

The Associate Director has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless they take remedial action.

## Regulatory Classification

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

## Paperwork Reduction Act.

This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

## Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, October 26, 1987, 3 CFR, 1987 Comp., p. 252.

## Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778, October 25, 1991, 56 FR 55195, 3 CFR, 1991 Comp., p. 309.

## List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

## PART 64—[AMENDED]

1. The authority citation for Part 64 continues to read as follows:

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

### § 64.6 [Amended]

2. The tables published under the authority of § 64.6 are amended as follows:

| State/Location | Community No | Effective date of eligibility | Current effective map date | Date certain federal assistance no longer available in special flood hazard areas |
|---|---|---|---|---|
| **Region II** | | | | |
| New Jersey: Brick, township of, Ocean County. | 345285 | June 30, 1970, Emerg; August 4, 1972 Reg; August 3, 1998, Susp. | August 3, 1998 | August 3, 1998. |
| New York: | | | | |
| Hermon, village of, Lawrence County ... | 361464 | January 13, 1976, Emerg; December 19, 1984, Reg; August 3, 1998, Susp. | .....do ..... | .....Do. |
| Lee, town of, Oneida County ..... | 360532 | March 6, 1975, Emerg; June 5 1985, Reg; August 3, 1998, Susp. | .....do ..... | .....Do. |
| **Region III** | | | | |
| Delaware: | | | | |
| New Castle County unincorporated areas. | 105085 | June 6, 1970, Emerg; December 3, 1971, Reg; August 3, 1998, Susp. | .....do ..... | .....Do. |

| State/Location | Community No | Effective date of eligibility | Current effective map date | Date certain federal assistance no longer available in special flood hazard areas |
|---|---|---|---|---|
| Newark, city of, New Castle County | 100025 | June 5, 1970, Emerg; March 29, 1974, Reg; August 3, 1998, Susp. | .....do | .....Do. |
| Pennsylvania: St. Marys, city of, Elk County | 420446 | October 25, 1973, Emerg; August 15, 1980, Reg; August 3, 1998, Susp. | .....do | .....Do. |
| Virginia: Rappahannock County, unincorporated areas. | 510128 | January 7, 1976, Emerg; August 24, 1984, Reg; August 3, 1998, Susp. | .....do | .....Do. |
| **Region IV** | | | | |
| North Carolina: | | | | |
| Mecklenburg County, unincorporated areas. | 370185 | May 17, 1973, Emerg; June 1, 1981, Reg; August 3, 1998 Susp. | .....do | .....Do. |
| Whiteville, city of, Columbus County | 370071 | September 3, 1974, Emerg; July 1, 1991, Reg; August 3, 1998, Susp. | .....do | .....Do. |
| **Region V** | | | | |
| Michigan: | | | | |
| Cadillac, city of, Wexford County | 260247 | June 2, 1975, Emerg; March 18, 1996, Reg; August 3, 1998, Susp. | .....do | .....Do. |
| Selma, township of, Wexford County | 260757 | April 7, 1986, Emerg; September 30, 1988, Reg; August 3, 1998, Susp. | .....do | .....Do. |
| **Region V** | | | | |
| Ohio: Champaign County, unincorporated areas. | 390055 | May 12, 1986, Emerg; April 3, 1985, Reg; August 3, 1998, Susp. | .....do | .....Do. |
| Wisconsin: | | | | |
| Oconto County, unincorporated areas | 550294 | May 21, 1973, Emerg; January 6, 1983 Reg; August 3, 1998, Susp. | .....do | .....Do. |
| Westfield, village of, Marquette County | 550269 | June 26, 1975, Emerg; January 17, 1991 Reg; August 3, 1998, Susp. | .....do | .....Do. |
| **Region VI** | | | | |
| Louisiana: Greenwood, town of, Caddo Parish. | 220292 | October 14, 1991, Emerg; August 3, 1998, Reg; August 3, 1998, Susp. | .....do | .....Do. |
| Oklahoma: Allen, town of, Pontotoc and Hughes Counties. | 400174 | September 26, 1975, Emerg; November 30, 1982, Reg; August 3, 1998, Susp. | .....do | .....Do. |
| **Region IX** | | | | |
| California: | | | | |
| Agoura Hills, city of, Los Angeles County. | 065072 | July 5 1984, Emerg; March 4, 1986, Reg; August 3, 1998, Susp. | .....do | .....Do. |
| Colusa, city of, Colusa County | 060023 | February 9, 1973, Emerg; June 30, 1976, Reg; August 3, 1998, Susp. | .....do | .....Do. |
| Colusa County, unincorporated areas | 060022 | January 16, 1976, Emerg; September 18, 1985, Reg; August 3, 1998, Susp. | .....do | .....Do. |
| Hawaii: Maui | 150003 | September 18, 1970, Emerg; June 1, 1981, Reg; August 3, 1998, Susp. | .....do | .....Do. |
| Oregon: Troutdale, city of, Multnomah County. | 410184 | June 13, 1974, Emerg; September 30, 1988, Reg; August 3, 1998, Susp. | .....do | .....Do. |
| **Region I** | | | | |
| Maine: Union, town of, Knox County | 230080 | July 3, 1975, Emerg; March 18, 1987 Reg; August 17, 1998, Susp. | August 17, 1998 | August 17, 1998. |
| **Region II** | | | | |
| New York: Canton, town of, St. Lawrence County. | 361172 | June 9, 1975, Emerg; December 19, 1984, Reg; August 17, 1998, Susp. | .....do | .....Do. |
| **Region IV** | | | | |
| North Carolina: | | | | |
| Emerald Isle, town of, Carteret County | 370047 | June 29, 1973, Emerg; April 1, 1977, Reg; August 17, 1998, Susp. | .....do | .....Do. |
| Haywood County, unincorporated areas | 370120 | June 9, 1975, Emerg; July 15, 1984, Reg; August 17, 1998, Susp. | .....do | .....Do. |
| **Region V** | | | | |
| Michigan: Clinton, charter township of, Macomb County. | 260121 | February 9, 1973, Emerg; August 1, 1979, Reg; August 17, 1998, Susp. | .....do | .....Do. |
| **Region VI** | | | | |
| Texas: | | | | |
| Enchanted Oaks, city of, Henderson County. | 481634 | June 20, 1990, Emerg; September 27, 1991, Reg; August 17, 1998, Susp. | .....do | .....Do. |

| State/Location | Community No | Effective date of eligibility | Current effective map date | Date certain federal assistance no longer available in special flood hazard areas |
|---|---|---|---|---|
| Gun Barrel City, city of, Henderson County. | 480328 | June 14, 1994, Reg; August 17, 1998, Susp | .....do ..... | .....Do. |
| Henderson County, unincorporated areas. | 481174 | April 8, 1987, Emerg; September 27, 1991, Reg; August 17, 1998, Susp. | .....do ..... | .....Do. |
| California: | | | | |
| San Jose, city of, Santa Clara County .. | 060349 | January 23, 1976, Emerg; August 2, 1982, Reg; August 17, 1998, Susp. | .....do ..... | .....Do. |
| Santa Clara County, unincorporated areas. | 060337 | June 18, 1979, Emerg; August 2, 1982 Reg; August 17, 1998 Susp. | .....do ..... | .....Do. |
| **Region X** | | | | |
| Oregon: Lincoln City, city of, Lincoln County | 410130 | December 22, 1972, Emerg; April 17, 1978, Reg; August 17, 1998, Susp. | .....do ..... | .....Do. |

Code for reading third column: Emerg.-Emergency; Reg.-Regular; Rein.-Reinstatement; Susp.-Suspension.

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

Issued: July 29, 1998.

**Michael J. Armstrong,**

*Associate Director for Mitigation.*

[FR Doc. 98–21196 Filed 8–6–98; 8:45 am]

BILLING CODE 6718–05–P

## FEDERAL EMERGENCY MANAGEMENT AGENCY

## 44 CFR Part 65

**[Docket No. FEMA–7261]**

## Changes in Flood Elevation Determinations

**AGENCY:** Federal Emergency Management Agency, FEMA.

**ACTION:** Interim rule.

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

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

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

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

**FOR FURTHER INFORMATION CONTACT:** Matthew B. Miller, P.E., Chief, Hazards Study Branch, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646–3461.

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

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

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

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

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

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

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

### National Environmental Policy Act

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

### Regulatory Flexibility Act

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

### Regulatory Classification

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

### Executive Order 12612, Federalism

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

### Executive Order 12778, Civil Justice Reform.

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

### List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 65 is amended to read as follows:

## PART 65—[AMENDED]

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

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

**§ 65.4 [Amended]**

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

| State and county | Location | Dates and name of newspaper where notice was published | Chief executive officer of community | Effective date of modification | Community No. |
|---|---|---|---|---|---|
| Alabama: | | | | | |
| Madison | City of Huntsville | April 28, 1998, May 5, 1998, *The Huntsville Times*. | The Honorable Loretta Spencer, Mayor of the City of Huntsville, P.O. Box 308, Huntsville, Alabama 35804. | April 21, 1998 | 010153 D |
| Madison | Unincorporated areas. | April 28, 1998, May 5, 1998, *The Huntsville Times*. | Mr. Mike Gillespie, Chairman of the Madison County Commission, Madison County Courthouse, 100 Northside Square, Huntsville, Alabama 35801. | April 21, 1998 | 010151 D |
| Florida: | | | | | |
| Charlotte | Unincorporated areas. | March 23, 1998, March 30, 1998, *Sarasota Herald Tribune-Charlotte AM Edition*. | Mr. Matthew D. DeBoer, Chairman, Charlotte County Board of Commissioners, 18500 Murdock Road, Room 536, Port Charlotte, Florida 33948–1094. | November 13, 1997. | 120061 E |
| Sarasota | Unincorporated areas. | May 4, 1998, May 11, 1998, *Sarasota Herald-Tribune*. | Mr. Jim Ley, Sarasota County Administrator, 1660 Ringling Boulevard, Sarasota, Florida 34236. | April 24, 1998 | 125144 E |
| Illinois: Cook and Will. | Village of Tinley Park. | April 30, 1998, May 7, 1998, *The Star*. | The Honorable Edward J. Zabrocki, Mayor of the Village of Tinley Park, 16250 South Oak Park Avenue, Tinley Park, Illinois 60477. | August 5, 1998 | 170169 E |
| Indiana: | | | | | |
| Monroe | City of Bloomington. | May 11, 1998, May 18, 1998, *The Herald-Times*. | The Honorable John Fernandez, Mayor of the City of Bloomington, P.O. Box 100, Bloomington, Indiana 47402. | May 4, 1998 | 180169 C |
| Monroe | Unincorporated areas. | May 14, 1998, May 21, 1998, *The Herald-Times*. | Mr. Norman S. Anderson, President of the Monroe County Commissioners, Monroe County Courthouse, Room 322 Bloomington, Indiana 47404. | May 1, 1998 | 180444 C |
| Michigan: | | | | | |
| Macomb | Township of Macomb. | April 28, 1998, May 5, 1998, *The Macomb Daily*. | Mr. John D. Brennan, Macomb Township Supervisor, 19925 Twenty-Three Mile Road, Macomb, Michigan 48042. | April 21, 1998 | 260445 B |
| Macomb | City of Sterling Heights. | April 5, 1998, April 12, 1998, *Sterling Heights Source*. | The Honorable Richard J. Notte, Mayor of the City of Sterling Heights, Administration Building, 40555 Utica Road, P.O. Box 8009, Sterling Heights, Michigan 48311–8009. | March 31, 1998 | 260128 E |
| Minnesota: Polk | City of East Grand Forks. | May 13, 1998, May 20, 1998, *The Exponent*. | The Honorable Lynn Stauss, Mayor of the City of East Grand Forks, P.O. Box 373, East Grand Forks, Minnesota 56721. | November 6, 1998 | 275236 C |
| New Jersey: | | | | | |
| Ocean | Township of Dover | April 8, 1998, April 15, 1998, *Ocean County Observer*. | The Honorable George Wittmann, Mayor of the Township of Dover, P.O. Box 728, Toms River, New Jersey 08754. | July 14, 1998 | 345293 D |
| Monmouth | Borough of Monmouth Beach. | April 28, 1998, May 5, 1998, *Ashburn Park Express*. | The Honorable James P. McConville III, Mayor of the Borough of Monmouth Beach, 22 Beach Road, Monmouth Beach, New Jersey 07750. | April 21, 1998 | 340315 |
| Ohio: | | | | | |
| Franklin and Delaware. | City of Dublin | April 16, 1998 April 23, 1998, *Daily Reporter*. | The Honorable Chuck Kranstuber, Mayor of the City of Dublin, 5200 Emerald Parkway, Dublin, Ohio 43017. | July 22, 1998 | 390673 G |

| State and county | Location | Dates and name of newspaper where notice was published | Chief executive officer of community | Effective date of modification | Community No. |
|---|---|---|---|---|---|
| Lorain ..... | City of Avon ..... | March 11, 1998, March 18, 1998, *The Morning Journal.* | The Honorable James A. Smith, Mayor of the City of Avon, 36774 Detroit Road, Avon, Ohio 44011–1588. | December 11, 1997. | 390348 C |
| Rhode Island: Kent | Town of West Warwick. | May 15, 1998, May 22, 1998, *Providence Journal-Bulletin* and *The Kent County Daily Times.* | Mr. David Clayton, Acting Town Manager, Town Hall, 1170 Main Street, West Warwick, Rhode Island 02893. | August 20, 1998 .. | 440007 B |
| Virginia: Loudoun ... | Unincorporated areas. | May 6, 1998, May 13, 1998, *Loudoun Times-Mirror.* | Mr. Kirby Bowers, Loudoun County Administrator, P.O. Box 7000, Leesburg, Virginia 20177–7000. | August 11, 1998 .. | 510090 C |
| West Virginia: Hardy | Town of Moorefield. | April 28, 1998, May 5, 1998, Moorefield Examiner. | The Honorable Larry P. Snyder, Mayor of the Town of Moorefield, 206 Winchester Avenue, Moorefield, West Virginia 26836. | August 3, 1998 .... | 540052 |
| Hardy ..... | Unincorporated areas. | April 28, 1998, May 5, 1998, *Moorefield Examiner.* | Mr. J. Michael Teets, President, Hardy County Commission, P.O. Box 209, Moorefield, West Virginia 26836. | August 3, 1998 .... | 540051 C |

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

Dated: July 31, 1998.

**Michael J. Armstrong,**

*Associate Director for Mitigation.*

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BILLING CODE 6718–03–P

## FEDERAL EMERGENCY MANAGEMENT AGENCY

## 44 CFR Part 67

## Final Flood Elevation Determinations

**AGENCY:** Federal Emergency Management Agency (FEMA).

**ACTION:** Final rule.

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

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

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

**FOR FURTHER INFORMATION CONTACT:** Matthew B. Miller, P.E., Chief, Hazards Study Branch, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646–3461.

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

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

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

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

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

### National Environmental Policy Act

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

### Regulatory Flexibility Act

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

### Regulatory Classification

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

### Executive Order 12612, Federalism

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

### Executive Order 12778, Civil Justice Reform

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

### List of Subjects in 44 CFR 67

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

Accordingly, 44 CFR part 67 is amended as follows:

## PART 67—[AMENDED]

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

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

### § 67.11 [Amended]

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

| Source of flooding and location | #Depth in feet above ground. *Elevation in feet (NGVD) |
|---|---|
| **ALABAMA** | |
| **Mobile (City), Mobile County (FEMA Docket Nos. 7223 and 7243)** | |
| *Bolton Branch East:* | |
| Upstream side of Halls Mill Road | *11 |
| Approximately 50 feet upstream of Grayson Drive | *27 |
| *Bolton Branch West:* | |
| At confluence with Montlimer Creek | *35 |
| Approximately 130 feet upstream of University Boulevard | *119 |
| *Campground Branch:* | |
| Approximately 120 feet downstream of Girby Road | *36 |
| Approximately 1.1 miles upstream of Girby Road | *96 |
| *Clear Creek:* | |
| Approximately 650 feet downstream of the Illinois Central Gulf Railroad | *107 |
| Approximately 170 feet downstream of the Illinois Central Gulf Railroad | *111 |
| *East Eslava Creek:* | |
| Approximately 1,170 feet downstream of Pinehill Road | *11 |
| Approximately 0.63 mile upstream of Airport Boulevard | *27 |
| *West Eslava Creek:* | |
| Approximately 75 feet upstream of confluence with Montlimar Creek | *38 |
| Approximately 120 feet upstream of Soost Court | *105 |
| *Halls Mill Creek:* | |
| Approximately 1,700 feet upstream of Interstate 10 | *11 |
| Just downstream of Sollie Road | *41 |
| *Little Stickney:* | |
| At confluence with Threemile Creek | *12 |
| At Tuscaloosa Street | *26 |
| *Milkhouse Creek:* | |
| At the confluence with Halls Mill Creek | *31 |
| Approximately 130 feet downstream of Cody Road | *108 |
| *Milkhouse Creek Tributary No. 1:* | |
| At the confluence with Milkhouse Creek | *83 |
| Approximately 0.7 mile upstream of the confluence of Milkhouse Creek Tributary No. 2 | *153 |
| *Milkhouse Creek Tributary No. 2:* | |
| At confluence with Milkhouse Creek Tributary No. 1 | *111 |
| Approximately 400 feet upstream of Wall Street | *135 |
| *Montlimar Creek:* | |
| Upstream side of Azalea Road | *11 |
| Approximately 120 feet upstream of College Road South | *48 |
| *Moore Creek:* | |
| Approximately 25 feet upstream of confluence with Montlimar Creek | *11 |
| At confluence of Spencer Branch | *42 |
| *Saltwater Branch:* | |
| At confluence with Eslava Creek East | *10 |
| Approximately 75 feet upstream of Cardinal Drive | *24 |
| *Second Creek:* | |
| At confluence with Milkhouse Creek | *31 |
| At confluence of Second Creek Tributary | *66 |
| *Spencer Branch:* | |
| At confluence with Moore Creek | *42 |
| Approximately 75 feet upstream of Wildwood Place | *123 |
| *Spring Creek:* | |
| Approximately 590 feet downstream of Halls Mill Road | *12 |
| Approximately 885 feet upstream of Woodland Road | *140 |
| *Spring Creek Tributary:* | |
| At the confluence with Spring Creek | *107 |
| Approximately 75 feet upstream of Woodland Road | *130 |
| *Tennessee Street Drainage:* | |
| At Baker Street | *12 |
| Approximately 750 feet upstream of Owens Street | *30 |
| *Threemile Creek:* | |
| Approximately 600 feet upstream of Saint Stephens Road | *12 |
| Approximately 980 feet upstream of Ziegler Boulevard | *186 |
| *Threemile Creek Tributary:* | |
| At confluence with Threemile Creek | *90 |
| Approximately 1,100 feet upstream of Overlook Road | *148 |
| *Toulmins Spring Branch:* | |
| Approximately 170 feet downstream of Craft Highway | *13 |
| At downstream side of West Prichard Avenue | *24 |
| *Toulmins Spring Branch Tributary No. 2:* | |
| At confluence with Toulmins Spring Branch | *19 |
| Approximately 125 feet upstream of O'Connor Street | *29 |
| *Twelvemile Creek:* | |
| At Arnold Road | *161 |
| Approximately 65 feet upstream of Dickens Ferry Road | *199 |
| *Woodcock Branch:* | |
| Approximately 900 feet upstream of confluence with East Eslava Creek | *11 |
| Approximately 480 feet upstream of Brierwood Drive | *24 |
| *Woodcock Branch East:* | |
| At confluence with Woodcock Branch | *15 |
| Approximately 290 feet upstream of Westwood Street | *19 |
| **Maps available for inspection** at the Mobile City Hall, 205 Government Street, 3rd Floor, Mobile, Alabama. | |
| **CONNECTICUT** | |
| **Plymouth (Town), Litchfield County (FEMA Docket No. 7199)** | |
| *Pequabuck River:* | |
| Approximately 700 feet downstream of East Main Street/U.S. Route 6 and 202 | *586 |
| Just upstream of Preston Road | *736 |
| *Tributary A to Pequabuck River:* | |
| At confluence with Pequabuck River | *696 |
| Just upstream of Preston Road | *746 |
| *Poland River:* | |
| At confluence with Pequabuck River | *590 |
| Approximately 1,100 feet upstream of confluence with Pequabuck River | *590 |
| **Maps available for inspection** at the Plymouth Town Hall, 80 Main Street, Terryville, Connecticut. | |
| **Windham (Town), Windham County (FEMA Docket No. 7247)** | |
| *Willimantic River:* | |
| Approximately 1,370 feet upstream from confluence with Shetucket River | *160 |
| At upstream corporate limits | *255 |
| **Maps available for inspection** at the Windham Town Clerk's Office, 979 Main Street, Willimantic, Connecticut. | |
| **ILLINOIS** | |
| **Northbrook (Village), Cook County (FEMA Docket No. 7231)** | |
| *Chicago River, North Branch, West Fork:* | |
| Approximately 80 feet downstream of Old Willow Road | *631 |
| Approximately 300 feet downstream of Interstate Route 94 | *651 |
| *Chicago River, North Branch, Middle Fork:* | |

| Source of flooding and location | #Depth in feet above ground. *Elevation in feet (NGVD) |
|---|---|
| Approximately 200 feet downstream of Meadow Brook Drive | *636 |
| Approximately 300 feet upstream of Red Oak Drive | *651 |
| *Underwriters Tributary:* | |
| Approximately 300 feet upstream of confluence with Chicago River, North Branch, West Fork | *649 |
| Approximately 200 feet downstream of Helen Drive | *665 |
| *Techny Drain:* | |
| Approximately 300 feet upstream of confluence with Chicago River, North Branch, West Fork | *636 |
| Downstream face of culvert approximately 70 feet downstream of Pfingston Road | *667 |
| *Techny Drain, South Fork:* | |
| Approximately 200 feet upstream of confluence with Techny Drain | *652 |
| Approximately 200 feet upstream of Wood Drive | *663 |
| **Maps available for inspection** at the Northbrook Village Hall, Engineering Department, 1225 Cedar Lane, Northbrook, Illinois. | |
| **INDIANA** | |
| **Allen County (Unincorporated Areas), (FEMA Docket No. 7223)** | |
| *Roy Delagrange Ditch:* | |
| At upstream face of Auburn Road | *827 |
| Approximately 500 feet upstream of Grass Lane | *842 |
| **Maps available for inspection** at the Allen County Surveyor's Office, City-County Building, Room 610, Fort Wayne, Indiana. | |
| **MAINE** | |
| **Pittston (Town), Kennebec County (FEMA Docket No. 7199)** | |
| *Kennebec River:* | |
| At downstream corporate limits | *20 |
| At confluence of Togus Stream | *24 |
| *Togus Stream:* | |
| At confluence with the Kennebec River | *24 |
| Approximately 0.86 mile upstream of State Route 27 | *29 |
| *Eastern River:* | |
| At downstream corporate limits | *12 |
| At downstream county boundary | *12 |
| Approximately 0.35 mile downstream of the confluence of Kimball Brook | *12 |
| **Maps available for inspection** at the Pittston Town Office, Route 2, Gardner, Maine. | |
| **Portland (City), Cumberland County (FEMA Docket No. 7251)** | |
| *Capisic Brook:* | |
| At upstream side of Capisic Brook Dam | *35 |
| At Warren Avenue | *68 |
| *East Branch Capisic Brook:* | |
| At confluence with Capisic Brook | *56 |
| Approximately 1,560 feet upstream of confluence of Capisic Brook | *63 |
| *West Branch Capisic Brook:* | |
| At confluence with Capisic Brook | *52 |
| At downstream side of Maine Turnpike | *58 |
| *Fall Brook:* | |
| Upstream side of Ocean Avenue | *29 |
| Approximately 0.55 mile upstream of Maine Avenue | *85 |
| **Maps available for inspection** at the City of Portland Zoning and Building Inspection Office, 389 Congress Street, Room 315, Portland, Maine. | |
| **Sidney (Town), Kennebec County (FEMA Docket No. 7247)** | |
| *Kennebec River:* | |
| At downstream corporate limits | *45 |
| At upstream corporate limits | *56 |
| *Messalonskee Lake:* | |
| Entire shoreline within community | *238 |
| **Maps available for inspection** at the Sidney Town Office, RR 3 Middle Road, Augusta, Maine. | |
| **Vienna (Town), Kennebec County (FEMA Docket No. 7247)** | |
| *Flying Pond:* | |
| Entire shoreline within community | *349 |
| **Maps available for inspection** at the Vienna Town Hall, Rt. 41, Vienna, Maine. | |
| **MASSACHUSETTS** | |
| **Sudbury (Town), Middlesex County (FEMA Docket No. 7247)** | |
| *Cold Brook:* | |
| Approximately 2.07 miles above confluence with Pantry Brook | *123 |
| Approximately 150 feet downstream of Pantry Road | *131 |
| *Dudley Brook and Tributary A to Dudley Brook:* | |
| Approximately 900 feet upstream of Bent Road | *155 |
| Approximately 25 feet upstream of Boston Post Road | *162 |
| *Mineway Brook:* | |
| Approximately 410 feet upstream of confluence with Pantry Brook | *126 |
| Approximately 220 feet upstream of Concord Road | *224 |
| *Pantry Brook:* | |
| Approximately 110 feet upstream of Marlboro Road | *142 |
| Approximately 0.54 mile upstream of Marlboro Road | *161 |
| *Run Brook:* | |
| Approximately 700 feet upstream of confluence with Hop Brook | *149 |
| Approximately 135 feet upstream of Fairbank Road | *182 |
| *Tributary A to Cold Brook:* | |
| Approximately 1,270 feet upstream of confluence with Cold Brook | *123 |
| Approximately 635 feet upstream of Tantamouse Trail | *175 |
| *Tributary A to Hop Brook:* | |
| Approximately 550 feet upstream with Hop Brook/Stearns Mill Pond | *159 |
| Approximately 25 feet upstream of Firecut Lane | *182 |
| *Tributary A to Pantry Brook:* | |
| At confluence with Pantry Brook | *142 |
| Approximately 21 feet downstream of Willis Road | *182 |
| *Tributary B to Hop Brook:* | |
| Approximately 422 feet upstream of confluence with Hop Brook | *160 |
| At upstream side of Moore Road | *174 |
| *Tributary C to Hop Brook:* | |
| Approximately 710 feet upstream of confluence with Hop Brook | *164 |
| Approximately 0.8 mile above confluence with Hop Brook | *176 |
| *Tributary D to Hop Brook:* | |
| Approximately 640 feet upstream of confluence with Hop Brook | *164 |
| At upstream corporate limits | *180 |
| **Maps available for inspection** at the Sudbury Town Hall, 288 Old Sudbury Road, Sudbury, Massachusetts. | |
| **MINNESOTA** | |
| **Cambridge (City), Isanti County (FEMA Docket No. 7243)** | |
| *Rum River:* | |
| Approximately 2.74 miles downstream of 2nd Avenue SW | *916 |
| Approximately 2.60 miles downstream of 2nd Avenue SW | *916 |
| Approximately 1.09 miles upstream of 1st Avenue | *918 |
| Approximately 1.62 miles upstream of 1st Avenue West | *918 |
| **Maps available for inspection** at the Cambridge Town Hall, 626 North Main Street, Cambridge, Minnesota. | |

| Source of flooding and location | #Depth in feet above ground. *Elevation in feet (NGVD) |
|---|---|
| **NEW JERSEY** | |
| **Glen Rock (Borough), Bergen County (FEMA Docket No. 7223)** | |
| *Diamond Brook:* | |
| At Harristown Road | *50 |
| Approximately 0.4 mile upstream of Rutland Road | *82 |
| **Maps available for inspection** at the Borough of Glen Rock Municipal Building, Rock Road, Glen Rock, New Jersey. | |
| **Midland Park (Borough), Bergen County (FEMA Docket No. 7223)** | |
| *Goffle Brook Tributary:* | |
| At the confluence with Goffle Brook | *262 |
| Approximately 900 feet upstream of Myrtle Avenue | *275 |
| *Goffle Brook:* | |
| Approximately 70 feet downstream of Lake Avenue | *171 |
| Approximately 125 feet upstream of CONRAIL | *268 |
| **Maps available for inspection** at the Midland Park Borough Hall, 280 Godwin Avenue, Midland Park, New Jersey. | |
| **Ramsey (Borough), Bergen County (FEMA Docket No. 7223)** | |
| *Pleasant Brook Tributary:* | |
| At the southeast intersection of Sherwood Drive and Nottingham Road | *278 |
| **Maps available for inspection** at the Ramsey Engineering Department, 33 North Central Avenue, Ramsey, New Jersey. | |
| **Ridgewood (Village), Bergen County (FEMA Docket No. 7223)** | |
| *Diamond Brook:* | |
| At the downstream corporate limits | *82 |
| Approximately 450 feet upstream of the downstream corporate limits | *82 |
| **Maps available for inspection** at the Department of Public Works, Engineering Division, 131 North Maple Avenue, Ridgewood, New Jersey. | |
| **Saddle River (Borough), Bergen County (FEMA Docket No. 7223)** | |
| *Saddle River:* | |
| Approximately 0.9 mile downstream of Lower Cross Road | *105 |
| At Locust Lane | *173 |
| **Maps available for inspection** at the Saddle River Municipal Building, 100 East Allendale Road, Saddle River, New Jersey. | |
| **Upper Saddle River (Borough), Bergen County (FEMA Docket No. 7223)** | |
| *Saddle River:* | |
| Approximately 1,275 feet downstream of confluence of Pleasant Brook | *166 |
| At the confluence of West Branch and East Branch Saddle Rivers | *207 |
| *East Branch Saddle River:* | |
| At the confluence with Saddle River | *207 |
| At the State boundary | *286 |
| *Oost Val Brook:* | |
| At the confluence with East Branch Saddle River | *249 |
| At the State boundary | *305 |
| *Pleasant Brook:* | |
| At the confluence with Saddle River | *171 |
| Approximately 80 feet upstream of Blue Spruce Road | *368 |
| *West Branch Saddle River:* | |
| At the confluence with Saddle River | *207 |
| Approximately 70 feet upstream of Hillside Road | *325 |
| *Sparrow Bush Brook:* | |
| At the confluence with West Branch Saddle River | *262 |
| Approximately 1,556 feet upstream of West Saddle River Road | *324 |
| *Kroner's Brook:* | |
| Approximately 275 feet upstream of confluence with Saddle River | *179 |
| Approximately 0.72 mile upstream of Lake Street | *277 |
| *Pleasant Brook Tributary:* | |
| At the confluence with Pleasant Brook | *261 |
| Approximately 1,200 feet upstream of Ware Road | *361 |
| **Maps available for inspection** at the Upper Saddle River Borough Hall, 376 West Saddle River Road, Upper Saddle River, New Jersey. | |
| **Waldwick (Borough), Bergen County (FEMA Docket No. 7223)** | |
| *Saddle River:* | |
| Approximately 0.9 mile downstream of Lower Cross Road | *105 |
| At the upstream corporate limits | *111 |
| **Maps available for inspection** at the Waldwick Borough Clerk's Office, 15 East Prospect Street, Waldwick, New Jersey. | |
| **NEW YORK** | |
| **Andover (Town), Allegany County (FEMA Docket No. 7223)** | |
| *Andover Pond:* | |
| Approximately 500 feet southwest of intersection of State Route 21 and Bines Hill Road | *1,669 |
| Approximately 0.45 mile southwest of intersection of State Route 21 and Bines Hill Road | *1,669 |
| *Dyke Creek:* | |
| Approximately 1200 feet downstream of CONRAIL | *1,573 |
| Approximately 1.03 mile upstream of State Route 417 | *1,641 |
| *Dyke Creek Split Flow:* | |
| At confluence with Dyke Creek | *1,580 |
| At divergence from Dyke Creek | *1,587 |
| **Maps available for inspection** at the Andover Town Hall, 22 East Greenwood Street, Andover, New York. | |
| **Vestal (Town), Broome County (FEMA Docket No. 7223)** | |
| *Susquehanna River:* | |
| Approximately 600 feet upstream of Main Street | *830 |
| Approximately 200 feet upstream of the downstream corporate limits | *827 |
| **Maps available for inspection** at the Vestal Engineering Department, 601 Vestal Parkway West, Vestal, New York. | |
| **NORTH CAROLINA** | |
| **Atlantic Beach (Town), Carteret County (FEMA Docket Nos. 7231 and 7247)** | |
| *Bogue Sound:* | |
| At the intersection of Salter Path Road and Henderson Boulevard | *7 |
| Approximately 800 feet northwest of the intersection of Salter Path Road and Henderson Boulevard | *8 |
| Approximately 800 feet north of intersection of North Court and Hoop Pole Road within extraterritorial jurisdiction limits | *8 |
| Approximately 2,000 feet north of intersection of Salter Path Road and Dunes Avenue within extraterritorial jurisdiction limits | *8 |
| Approximately 0.5 mile east of intersection of North Court and Hoop Pole Road within extraterritorial jurisdiction limits | *9 |
| Approximately 0.6 mile northwest of intersection of Old Causeway and Pond Drive within extraterritorial jurisdiction limits | *9 |

| Source of flooding and location | #Depth in feet above ground. *Elevation in feet (NGVD) |
|---|---|
| Approximately 1,500 feet north of intersection of Fort Macon Drive and Tar Landing Road within extraterritorial jurisdiction limits | *9 |
| *Atlantic Ocean:* | |
| Approximately 150 feet south from the intersection of Henderson Boulevard and Asbury Avenue | *12 |
| Approximately 330 feet south from the intersection of Henderson Boulevard and Ess Pier along Ess Pier | *18 |
| **Maps available for inspection** at the Atlantic Beach Town Hall, 125 West Fort Macon Road, Atlantic Beach, North Carolina. | |
| **Bethania (Town), Forsyth County (FEMA Docket No. 7190)** | |
| *Muddy Creek:* | |
| Approximately 25 feet upstream of the State Road 67 Reynolda Road) bridge | *777 |
| Approximately 1,300 feet downstream of Bethania-Tobaccoville Road | *793 |
| **Maps available for inspection** at the Bethania Town Office, 5610 Main Street, Bethania, North Carolina. | |
| **Carteret County (Unincorporated Areas) (FEMA Docket No. 7247)** | |
| *Atlantic Ocean:* | |
| Approximately 300 feet south of the intersection of NC 58 and Hoffman Road | *13 |
| *Atlantic Ocean/Onslow Bay:* | |
| Approximately 1,240 feet south of the intersection of State Route 1190 and State Route 1191 | *18 |
| *Atlantic Ocean/Bogue Sound:* | |
| Approximately 450 feet north of the intersection of NC 58 and Hoffman Road | *7 |
| Approximately 1.2 miles east of the intersection of State Route 1190 and State Route 1191 | *18 |
| **Maps available for inspection** at the Carteret County Central Permit Office, Courthouse Square, Beaufort, North Carolina. | |
| **Forsyth County (Unincorporated Areas) (FEMA Docket No. 7190)** | |
| *Abbotts Creek:* | |
| Approximately 0.5 mile downstream of High Point Road (State Route 1003) | *807 |
| Approximately 1,150 feet upstream of US I–40 | *879 |
| *Bear Creek:* | |
| At confluence with Muddy Creek | *778 |
| Approximately 280 feet upstream of Bethania Road | *779 |
| *Belews Creek:* | |
| At US 158 | *752 |
| At confluence of Dean Creek | *767 |
| Approximately 300 feet upstream of Hidden Valley School Road | *806 |
| *Bill Branch:* | |
| At confluence with Muddy Creek | *759 |
| Approximately 120 feet downstream of Spicewood Drive | *759 |
| *Blanket Bottom Creek:* | |
| Approximately 500 feet upstream of confluence with the Yadkin River At Styers Ferry Road | *782 |
| **Cuddybum Branch:** | |
| At confluence with Abbotts Creek | *807 |
| Approximately 850 feet upstream of confluence with Abbotts Creek | *807 |
| *Fiddlers Creek:* | |
| At confluence with South Fork Muddy Creek | *749 |
| Approximately 50 feet downstream of Lake Valley Road | *869 |
| *Grassy Creek:* | |
| Approximately 500 feet upstream of Ziglar Road | *818 |
| Approximately 0.8 mile upstream of Perth Road | *963 |
| *James Branch:* | |
| At confluence with Muddy Creek | *745 |
| Approximately 1,400 feet upstream of confluence with Muddy Creek | *747 |
| *Johnson Creek:* | |
| At confluence with Yadkin River | *707 |
| Approximately 1,800 feet upstream of Tanglebrook Trail | *707 |
| *Johnson Creek Tributary:* | |
| At confluence with Johnson Creek | *707 |
| Approximately 0.6 mile upstream of Tanglebrook Trail | *707 |
| *Kerners Mill Creek:* | |
| Approximately 670 feet upstream of confluence with Harmon Mill Creek | *829 |
| At Hopkins Road | *876 |
| *Fivemile Branch:* | |
| At confluence with Mill Creek | *844 |
| Approximately 400 feet upstream of confluence with Mill Creek | *844 |
| *Leak Creek:* | |
| At confluence with South Fork Muddy Creek | *718 |
| Approximately 1,800 feet upstream of confluence with South Fork Muddy Creek | *718 |
| *Little Creek:* | |
| Approximately 1,800 feet downstream of Jonestown Road | *707 |
| Approximately 400 feet downstream of Jonestown Road | *710 |
| *Mill Creek:* | |
| Approximately 525 feet downstream of Old Rural Hall Road | *824 |
| At downstream side of Davis Road | *870 |
| *Mill Creek No. 3:* | |
| At confluence with Muddy Creek | *792 |
| At High Cliffs Road | *792 |
| *Muddy Creek:* | |
| Approximately 60 feet upstream of Cooper Road | *693 |
| Approximately 1,500 feet downstream of Bethania-Tobaccoville Road | *793 |
| *Oil Mill Branch:* | |
| At confluence with Muddy Creek | *753 |
| Approximately 900 feet upstream of confluence with Muddy Creek | *753 |
| *Reynolds Creek:* | |
| At confluence with Tomahawk Creek | *731 |
| Approximately 1.1 miles upstream of Styers-Ferry Road | *782 |
| *Salem Creek:* | |
| At confluence with Muddy Creek | *695 |
| Approximately 1,850 feet downstream of WWTP Road | *712 |
| *Sawmill Branch:* | |
| At confluence with South Fork Muddy Creek | *783 |
| Approximately 800 feet upstream of confluence with South Fork Muddy Creek | *786 |
| *Silas Creek:* | |
| At confluence with Muddy Creek | *708 |
| Approximately 0.5 mile upstream of I–40 | *723 |
| *Soakas Creek:* | |
| At confluence with South Fork Muddy Creek | *728 |
| Approximately 1,200 feet above confluence with South Fork Muddy Creek | *728 |
| *South Fork Muddy Creek:* | |
| Approximately 100 feet downstream of county boundary | *690 |
| Approximately 700 feet downstream of Piedmont Memorial Drive | *819 |
| *Swaim Creek:* | |
| At confluence with South Fork Muddy Creek | *818 |
| Approximately 1.2 miles upstream of State Road 1003 | *867 |
| *Tomahawk Branch:* | |
| At confluence with Tomahawk Creek | *770 |
| Approximately 70 feet upstream of confluence with Tomahawk Creek | *771 |
| *Tomahawk Creek:* | |
| At confluence with Muddy Creek | *729 |
| Approximately 75 feet upstream of Robinhood Road | *787 |
| *Vernon Branch:* | |
| At confluence with South Fork Muddy Creek | *761 |
| Approximately 190 feet upstream of Foxmeadow Lane | *766 |
| *Yadkin River:* | |
| Approximately 1,300 feet downstream of Idols Dam | *700 |

| Source of flooding and location | #Depth in feet above ground. *Elevation in feet (NGVD) |
|---|---|
| Approximately 500 feet upstream of Interstate Route 40 | *710 |
| **Maps available for inspection** at the City/County Planning Board Office, 101 North Main Street, Winston-Salem, North Carolina. | |
| **Grifton (Town), Lenoir and Pitt Counties (FEMA Docket No. 7247)** | |
| *Contentnea Creek:* | |
| Approximately 3.7 miles downstream of CSX Transportation | *21 |
| Approximately 2.6 miles upstream of State Highway 11 | *28 |
| *Eagle Swamp:* | |
| Approximately 0.9 mile downstream of County Route 1800 | *24 |
| Approximately 500 feet upstream of County Route 1709 | *33 |
| **Maps available for inspection** at the Grifton Town Hall, 212 West Queen Street, Grifton, North Carolina. | |
| **Kernersville (Town), Forsyth County (FEMA Docket No. 7190)** | |
| *Kerners Mill Creek:* | |
| At Hopkins Road | *876 |
| Approximately 500 feet downstream of Dogwood Lane | *886 |
| **Maps available for inspection** at the Kernersville Town Hall, Planning Department, 134 East Mountain Street, Kernersville, North Carolina. | |
| **Pine Knoll Shores (Town), Carteret County (FEMA Docket No. 7247)** | |
| *Bogue Sound:* | |
| At the intersection of Arborvitae Court and Cottonwood Court | *7 |
| Approximately 400 feet upstream of the intersection of Murey and Coral Drives | *7 |
| *Atlantic Ocean:* | |
| 3At the intersection of Pinewood and Bay Drives | *12 |
| Entire shoreline within community between western and eastern corporate limits | *19 |
| *Pine Knoll Waterway:* | |
| Entire shoreline within community | *7 |
| *Kings Corner Hearth Cove:* | |
| Entire shoreline within community | *7 |
| *Maps available for inspection* at the Pine Knoll Shores Town Hall, 100 Municipal Circle, Pine Knoll Shores, North Carolina. | |
| **Raleigh (City), Wake County (FEMA Docket No. 7247)** | |
| *Southwest Prong Beaverdam Creek:* | |
| At the confluence with Beaverdam Creek (Basin 18, Stream 28) | *248 |
| Approximately 50 feet downstream of Cambridge Road | *257 |
| **Maps available for inspection** at the City of Raleigh Inspections Department, Conservation Section, 222 West Hargett Street, Raleigh, North Carolina. | |
| **Rosman (Town), Transylvania County (FEMA Docket No. 7223)** | |
| *French Broad River:* | |
| Approximately 0.55 mile downstream of U.S. Highway 178 | *2,182 |
| Approximately 0.55 mile upstream of Turnpike Road | *2,202 |
| **Maps available for inspection** at the Rosman Town Hall, Main Street, Rosman, North Carolina. | |
| **Winston-Salem (City), Forsyth County (FEMA Docket No. 7190)** | |
| *Berry Branch:* | |
| At confluence with Salem Creek | *769 |
| Approximately 1,920 feet upstream of confluence with Salem Creek | *771 |
| *Brenner Lake Branch:* | |
| At confluence with Mill Creek | *760 |
| Approximately 620 feet upstream of confluence with Mill Creek | *760 |
| *Brushy Fork Creek:* | |
| At confluence with Salem Creek | *768 |
| At Reynolds Park Road | *770 |
| *Buena Vista Branch:* | |
| At confluence with Silas Creek | *801 |
| Approximately 430 feet upstream of Shaffner Park Bridge | *802 |
| *Burke Creek:* | |
| Approximately 450 feet upstream of confluence with Salem Creek | *724 |
| At Limit of Detailed Study (Silas Creek Parkway) | *785 |
| *Cloverleaf Branch:* | |
| At confluence with Salem Creek | *760 |
| Approximately 30 feet downstream of Hobson Street | *760 |
| *Dunagun Branch:* | |
| At confluence with Kerners Mill Creek | *800 |
| Approximately 1,760 feet upstream of confluence with Kerners Mill Creek | *800 |
| *Fiddlers Creek:* | |
| At confluence with South Fork Muddy Creek | *749 |
| Approximately 250 feet upstream of Oak Grove Road | *844 |
| *Fiddlers Creek Tributary:* | |
| At confluence with Fiddlers Creek | *817 |
| Approximately 140 feet upstream of confluence with Fiddlers Creek | *817 |
| *Grassy Creek:* | |
| At confluence with Mill Creek | *790 |
| Just downstream of NC 66 | *839 |
| *Kerners Mill Creek:* | |
| At confluence with Salem Creek | *800 |
| Approximately 850 feet upstream of confluence with Harmon Mill Creek | *829 |
| *Leak Fork Creek:* | |
| At confluence with Mill Creek | *786 |
| Approximately 500 feet upstream of Patterson Avenue | *875 |
| *Little Creek:* | |
| Approximately 1,800 feet downstream of Jonestown Road | *707 |
| At Limit of Detailed Study (approximately 200 feet downstream of Westview Drive) | *853 |
| *Lowery Mill Creek:* | |
| At confluence with Salem Creek | *801 |
| Approximately 1,750 feet upstream of Old Greensboro Road | *801 |
| *Fivemile Branch:* | |
| Approximately 400 feet upstream of confluence with Mill Creek | *844 |
| Approximately 825 feet upstream of confluence with Mill Creek | *844 |
| *Milhaven Creek:* | |
| At confluence with Muddy Creek | *739 |
| Approximately 300 feet upstream of confluence with Muddy Creek | *739 |
| *Mill Creek:* | |
| At confluence with Muddy Creek | *747 |
| Approximately 150 feet upstream of Phelps Drive | *855 |
| *Mill Creek Tributary:* | |
| At confluence with Mill Creek | *806 |
| Approximately 900 feet upstream of confluence with Mill Creek | *806 |
| *Monarcas Creek:* | |
| Approximately 1,800 feet upstream of confuence with Mill Creek | *781 |
| Approximately 100 feet upstream of Linn Station Road | *860 |
| *Muddy Creek:* | |
| Approximately 0.7 mile downstream of US 421 | *719 |
| Approximately 250 feet upstream of Reynolda Road | *777 |
| *Muddy Creek Tributary:* | |
| At confluence with Muddy Creek | *736 |
| Approximately 1,520 feet upstream of confluence with Muddy Creek | *736 |
| *Peters Creek:* | |

| Source of flooding and location | #Depth in feet above ground. *Elevation in feet (NGVD) |
|---|---|
| At confluence with Salem Creek | *747 |
| Approximately 250 feet upstream of Link Road | *747 |
| *Petree Creek:* | |
| At confluence with Mill Creek | *754 |
| Approximately 60 feet downstream of Petree Road | *754 |
| *Reynolda Commons Bypass:* | |
| At confluence with Mill Creek | *773 |
| Approximately 200 feet upstream of Reynolda Road | *776 |
| *Robbindale Branch:* | |
| At confluence with Fiddlers Creek | *813 |
| Approximately 200 feet upstream of confluence with Fiddlers Creek | *813 |
| *St. Delight Branch:* | |
| At confluence with Kerners Mill Creek | *801 |
| Approximately 290 feet upstream of Fire Road | *801 |
| *Salem Creek:* | |
| At Clemmonsville Road | *707 |
| At confluence with Kerners Mill Creek | *800 |
| *Silas Creek:* | |
| At confluence with Muddy Creek | *708 |
| Approximately 1,400 feet upstream of Oldtown Club Road | *883 |
| *Stadium Branch:* | |
| At confluence with Salem Creek | *766 |
| At Diggs Boulevard | *766 |
| *Terry Road Branch:* | |
| At confluence with Salem Lake | *801 |
| Approximately 80 feet downstream of Fire Road | *801 |
| **Maps available for inspection** at the City/County Planning Board Office, 101 North Main Street, Winston-Salem, North Carolina. | |
| **OHIO** | |
| **Clark County (Unincorporated Areas) (FEMA Docket No. 7219)** | |
| *Mad River:* | |
| At CONRAIL | *888 |
| Approximately 2,100 feet downstream of Snider Road | *856 |
| **Maps available for inspection** at the Clark County Building Department, 25 West Pleasant Street, Springfield, Ohio. | |
| **PENNSYLVANIA** | |
| **Hatfield (Township), Montgomery County (FEMA Docket No. 7219)** | |
| *West Branch Neshaminy Creek Tributary No. 2:* | |
| Approximately 600 feet upstream of confluence with West Branch Neshaminy Creek | *289 |
| Approximately 600 feet upstream of Lansdale Tributary | *302 |
| **Maps available for inspection** at the Hatfield Township Administration Building, 1950 School Road, Hatfield, Pennsylvania. | |
| **Lansdale (Borough), Montgomery County (FEMA Docket No. 7219)** | |
| *West Branch Neshaminy Creek Tributary No. 2 (previously Lansdale Tributary and Neshaminy Creek Branch):* | |
| Approximately 250 feet upstream of Schwab Road | *301 |
| Approximately 650 feet upstream of West 5th Street | *318 |
| **Maps available for inspection** at the Lansdale Borough Building, One Vine Street, Lansdale, Pennsylvania. | |
| **VERMONT** | |
| **Waterbury (Town), Washington County (FEMA Docket No. 7211)** | |
| *Winooski River:* | |
| At Bolton Falls Dam | *409 |
| Approximately 1,400 feet downstream of the most upstream corporate limits | *432 |
| **Maps available for inspection** at the Waterbury Municipal Office, 51 South Main Street, Waterbury, Vermont. | |
| **Waterbury (Village), Washington County (FEMA Docket No. 7211)** | |
| *Winooski River:* | |
| At U.S. Route 2 bridge | *426 |
| Approximately 700 feet upstream of U.S. Route 2 bridge | *427 |
| **Maps available for inspection** at the Waterbury Municipal Office, 51 South Main Street, Waterbury, Vermont. | |
| **WEST VIRGINIA** | |
| **Berkeley County (Unincorporated Areas) (FEMA Docket No. 7247)** | |
| *Rockymarsh Run:* | |
| Approximately 80 feet downstream of Billmyer Mill Road | *418 |
| At confluence of Tributary to Rockymarsh Run | *427 |
| *Tributary to Rockymarsh Run:* | |
| At confluence with Rockymarsh Run | *427 |
| Approximately 820 feet upstream of State Route 45 | *436 |
| **Maps available for inspection** at the Berkeley County Planning Commission, 119 West King Street, Martinsburg, West Virginia. | |
| **WISCONSIN** | |
| **Chetek (City), Barron County (FEMA Docket Nos. 7175 and 7247)** | |
| *Lake Chetek:* | |
| Entire shoreline within corporate limits | *1,040 |
| *Prairie Lake:* | |
| Entire shoreline within corporate limits | *1,040 |
| *Chetek River:* | |
| Approximately 1,700 feet downstream of Chicago and North Railway (at corporate limits) | *1,031 |
| Approximately 50 feet downstream of dam on Chetek River | *1,039 |
| **Maps available for inspection** at the Chetek City Clerk's Office, 220 Stout Street, Chetek, Wisconsin. | |

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

Dated: July 31, 1998.

**Michael J. Armstrong,**

*Associate Director for Mitigation.*

[FR Doc. 98–21193 Filed 8–6–98; 8:45 am]

BILLING CODE 6718–04–U

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

### Health Care Financing Administration

### 45 CFR Part 233

**[HCFA–2106–FC]**

**RIN 0938–AH79**

## Medicaid and Title IV–E Programs; Revision to the Definition of an Unemployed Parent

**AGENCY:** Administration for Children and Families (ACF), and Health Care Financing Administration (HCFA), HHS.

**ACTION:** Final rule with comment period.

**SUMMARY:** The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) transformed the nation's welfare system into one that requires work in exchange for time-limited assistance. The law eliminated the Aid to Families with Dependent Children (AFDC) program and replaced it with the Temporary Assistance for Needy Families (TANF) program. The law provides States flexibility to design their TANF programs in ways that

strengthen families and promote work, responsibility, and self-sufficiency while holding them accountable for results. Many States are using this flexibility to provide welfare to work assistance to two parent families, which was more difficult to do under the old welfare rules. However, pre-existing regulations regarding the definition of ''unemployed parent'' prevent some States from providing intact families with health insurance to help them stay employed. This rule will eliminate this vestige of the old welfare system in order to promote work, strengthen families, and simplify State program administration.

In general under PRWORA, States must ensure that families who would have qualified for Medicaid health benefits under the prior welfare law are still eligible.

While under the previous law receipt of AFDC qualified families for Medicaid, the new statute does not tie receipt of TANF to Medicaid. Instead, subject to some exceptions, Medicaid eligibility for families and children now depends upon whether a family would have qualified for AFDC under the rules in effect on July 16, 1996. Similarly, Federal foster care eligibility depends on whether the child would have qualified for AFDC under the rules in effect on July 16, 1996.

In order for a family to qualify for assistance under the pre-PRWORA AFDC rules, its child had to be deprived of parental support or care due to the death, absence, incapacity, or unemployment of a parent. Two parent families generally qualified only under the ''unemployment'' criterion which was narrowly defined in the AFDC regulations. In this final rule with comment, we are amending these regulations to provide States with additional flexibility to provide Medicaid coverage to two parent families, facilitate coordination among the TANF, Medicaid and foster care programs, increase incentives for full-time work, and allow States to eliminate inequitable rules that are a disincentive to family unity.

**DATES:** *Effective Date:* These regulations are effective on August 7, 1998.

*Comments:* Written comments will be considered if we receive them at the appropriate address, as provided below, no later than 5:00 p.m. on October 6, 1998.

**ADDRESSES:** Mail written comments (one original and three copies) to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: HCFA–2106–FC, P.O. Box 7517, Baltimore, MD 21207–0517.

If you prefer, you may deliver your written comments (one original and three copies) to one of the following addresses:

Room 309–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW, Washington, D.C., or

Room C5–09–27, Central Building, 7500 Security Boulevard, Baltimore, Maryland.

Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code HCFA–2106–FC. Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in Room 309–G of the Department's offices at 200 Independence Avenue, SW, Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (Phone: (202) 690–7890).

If you wish to submit written comments on the information collection requirements contained in this final rule with comment period, you may submit written comments to the following:

Laura Oliven, HCFA Desk Officer, Office of Information and Regulatory Affairs, Room 3001, New Executive Office Building, Washington, D.C. 20503; and

Health Care Financing Administration, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards, Room C2–26–17, 7500 Security Boulevard, Baltimore, MD 21244–1850.

**FOR FURTHER INFORMATION CONTACT:** Judith Rhoades, (410) 786–4462 (Medicaid), Terry Lewis, (202) 205–8102 (title IV–E foster care).

**SUPPLEMENTARY INFORMATION:**

## I. Background

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104–193 (commonly referred to as welfare reform), enacted on August 22, 1996, replaced the Federal/State program of Aid to Families With Dependent Children (AFDC) with a new program of block grants to States for Temporary Assistance for Needy Families (TANF). This change has substantial implications for Medicaid and title IV–E foster care eligibility. Prior to the enactment of Public Law 104–193, under section 1902(a)(10)(A)(i)(I) of the Social Security Act (the Act), individuals who received AFDC cash assistance or were deemed to have received AFDC were automatically eligible for Medicaid. Section 114 of Public Law 104–193 amended the Act by redesignating section 1931 as section 1932 and inserting a new section 1931 which establishes a new Medicaid eligibility group for low-income families that is related to eligibility requirements of the AFDC program in effect on July 16, 1996. Section 108(d) of Public Law 104–193 amended title IV–E of the Act to provide for Federal foster care eligibility of children who would have been eligible for AFDC under the June 1, 1995 requirements. Section 5513(b) of the Balanced Budget Act of 1997 (Public Law 105–33) amended sections 472 and 473 of the Act to replace the reference to the June 1, 1995 AFDC requirements date (regarding title IV–E foster care eligibility), with a reference to July 16, 1996 AFDC requirements. This technical change makes the July 16, 1996 date consistent with the Medicaid AFDC eligibility provisions. In other words, the financial eligibility standards and deprivation requirements of the States' pre-welfare reform AFDC programs will be used to determine Medicaid and title IV–E foster care eligibility. One requirement in both programs is that a child in a family must be deprived of parental support or care by reason of the death, absence, incapacity, or unemployment of a parent (the pre-welfare reform AFDC deprivation provision).

Under the AFDC program, States were required to provide cash assistance to families in which the principal wage earner was unemployed. Unemployment of the principal wage earner constituted a type of dependency relationship under the AFDC program. Section 407(a) of the Act authorized the Secretary to prescribe standards for determining unemployment for purposes of this requirement. It did not specifically define unemployment. In accordance with this provision, the Secretary established an hour standard for determining unemployment, with an exception for certain intermittent work, under current regulations at 45 CFR 233.101(a)(1). Specifically, § 233.101(a)(1) provides that the definition of unemployed must include any such parent who is employed less than 100 hours a month; or exceeds that standard for a particular month, if the work is intermittent and the excess is of a temporary nature as evidenced by the fact that the parent was under the 100-hour standard for the prior 2 months and is expected to be under the standard during the next month. These pre-welfare reform regulations apply for purposes of determining whether a

family would have qualified for AFDC under the statute in effect on July 16, 1996, which is part of the test for Medicaid eligibility.

Under TANF, States will no longer be mandated to provide cash assistance to intact families on the basis of unemployment but may choose to do so. Some States may establish more restrictive eligibility standards for cash assistance and some may provide more expansive ones, but all States must use the prior law AFDC standards in determining Medicaid eligibility. For administrative simplicity, a State may wish to align the eligibility requirements of the new Medicaid eligibility group with its requirements under TANF. In consultation with States, we have learned that many States believe the definition of unemployment established under § 233.101(a)(1) for the AFDC program is inequitable and excessively restrictive. They do not intend to continue using the definition under their TANF programs. Some States believe that this definition is anti-family and disadvantages intact families. Under the AFDC program, employment in excess of 100 hours per month was immaterial for single-parent families. Some States believe if they were to import the 100-hour rule into their TANF programs, families in which a principal wage earner is employed over 100 hours per month, but whose income is below the cash assistance standard, may actually break up in order to be eligible for cash assistance.

States have indicated they would like to align eligibility of TANF, foster care, and Medicaid programs for programmatic reasons (such as facilitating Medicaid eligibility) and administrative simplicity. However, the existing definition of unemployment in § 233.101(a)(1) will stand in the way of this alignment if a State chooses to apply a more liberal definition of employment under its TANF program.

We agree with States that the existing definition of unemployment is too restrictive. It imposes an impediment to administrative simplification particularly for those States that believe that the policy is inequitable and discourages family unity. For these reasons, we are revising the definition of unemployment to allow States the opportunity to adopt more flexible definitions of unemployment. This revision will allow States to align their TANF, foster care, and Medicaid programs and thereby allow administrative simplification. It will also allow States to eliminate policies they believe to be inequitable and a disincentive to family unity. We expect that some States will choose to consider the principal wage earner to be unemployed if the family income is below the applicable cash assistance standard. Under welfare reform demonstration projects, 32 States have statewide title IV–A waivers that allow them to treat single-parent and two-parent recipient families the same. In these States, eligibility for cash assistance is not terminated solely on the basis of hours worked. It is expected that these States will use section 1931(d) authority to continue this policy under their TANF programs for purposes of Medicaid eligibility. However, it is expected that additional States may wish to adopt a similar policy under their TANF programs for purposes of Medicaid eligibility. (Six States have related title IV–A waivers in limited areas of the State. The section 1931(d) authority cannot be used to continue these waivers on a statewide basis under TANF.)

Section 1931(b) of the Act, as added by Public Law 104–193, provides that an individual must be treated as receiving aid or assistance under a State plan approved under title IV only if the individual meets the income and resources standards and methodologies and the eligibility requirements of the State's title IV–A plan under section 406(a) through (c) and section 407(a) of the Act as in effect as of July 16, 1996. Section 407(a) defined ''dependent child'' to include a needy child ''who has been deprived of parental support or care by reason of the unemployment (as determined in accordance with standards prescribed by the Secretary) of the parent who is the principal wage earner.'' The regulations promulgated under the section 407(a) authority generally imposed a 100-hour test to determine unemployment of the principal wage earner (45 CFR 233.101(a)(1)). Nevertheless, we believe that the reference in section 1931(b) to the requirements of section 407(a) as in effect on July 16, 1996 does not freeze those regulations in place. Rather, it refers to the statutory test for unemployment, which is itself subject to regulation by the Secretary. In view of the new flexibility contained in the TANF statute and the desirability of coordinating Medicaid and foster care rules with expanded TANF criteria, we believe that section 1102 of the Act affords the Secretary with the authority to provide States with the discretion to liberalize their definitions of unemployment for purposes of Medicaid eligibility. Therefore, we are revising the regulations at 45 CFR 233.101(a)(1) to permit States to include families with unemployed parents who would not have met the 100-hour rule contained in the existing regulation.

## II. Provisions of the Final Rule With Comment Period

We are revising § 233.101(a)(1) to specify that a State's definition of unemployed, for purposes of Medicaid and title IV–E eligibility, must have a reasonable standard and, at a minimum, include any such parent who is employed less than 100 hours a month, or meets the exception for certain intermittent work specified in existing regulations.

Under the revised definition, States will not be allowed to define unemployment in any way that is more restrictive than the existing definition. This is because the intent of the welfare reform legislation was to protect Medicaid and title IV–E eligibility for any individuals who would have been eligible under the AFDC rules previously in effect. Furthermore, the revised regulation does not require States to adopt a broader definition of unemployment, since there in no indication that the Congress intended to mandate expanded eligibility beyond the statutory baseline.

In addition, States will be required to develop a reasonable standard as part of the definition of unemployment. That standard may be based on hours of work and/or dollar amounts and may include family size and/or time elements.

## III. Regulatory Impact Statement

HCFA has examined the impact of this final rule with comment period as required by Executive Order 12866 and the Regulatory Flexibility Act (RFA) (Public Law 96–354). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulations are necessary, to select regulatory approaches that maximize net benefits (including potential economic environments, public health and safety, other advantages, distributive impacts, and equity). We believe that this final rule with comment period is consistent with the regulatory philosophy and principles identified in the Executive Order. The RFA requires agencies to analyze options for regulatory relief for small businesses. For purposes of a RFA, individuals and States are not considered to be small entities.

In addition, section 1102(b) of the Act requires us to prepare a regulatory impact analysis for any final rule that may have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 604 of the RFA. With the

exception of hospitals located in certain rural counties adjacent to urban areas, for purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 50 beds.

This final rule with comment period makes a change necessary to facilitate the coordination of Medicaid with TANF in cases where a State has expanded coverage under its TANF plan beyond the definition of unemployed parent that was contained in existing AFDC regulations. The rule revises the definition of unemployment of a principal wage earner for purpose of unifying families.

We estimate that this rule meets the threshold under Executive Order 12866 of an effect on the economy of $100 million or more and thus requires a regulatory impact analysis as an economically significant rule. Therefore, we have developed the following analysis in combination with the remainder of this preamble.

Although this rule is considered an economically significant rule, we believe that the legislative intent of the Congress in passing the PRWORA was to encourage needy families to withdraw from welfare dependency over time, and at the same time provide them with temporary assistance. Therefore, we believe it is necessary to revise the definition of an unemployed parent to achieve these goals.

The table below shows estimates of Federal and State shares of Medicaid program costs that may be incurred as a result of this regulation. These estimates are based on an initial simulation study conducted in 1996 by the Urban Institute to determine the impact of repealing the 100-hour rule in those States that did not have IV–A waivers at that time. This simulation produced an estimated increase of 1.275 million individuals who would meet AFDC eligibility requirements as a result of repeal of the 100-hour rule. Of these 1.275 million individuals, the Urban Institute estimated that .546 million—mostly adults—would gain Medicaid eligibility specifically because of the change; the balance would have been eligible for Medicaid already, under other Medicaid eligibility provisions. Of all the adults gaining AFDC eligibility as a result of the change, the Urban Institute estimated that 83 percent would also gain Medicaid eligibility as a result (that is, would not otherwise have been eligible for Medicaid).

Our estimate starts from the Urban Institute numbers of potential new Medicaid eligibles, and updates them using a corrected list of States that currently have statewide or substate IV–A waivers. (Over 30 States have approved IV–A waivers, either Statewide or substate.) We assumed no Medicaid effect in those States in which the 100-hour rule is already waived, and we assumed further that these waivers would remain in effect throughout the estimate period.

Then, for the remaining States, we projected population growth, Participation rates, and Medicaid per capita costs over the 5-year estimate period. We also assumed that only adults would be affected by any broadening of the definition of unemployment, since children would most likely be covered already through other eligibility mechanisms. This methodology produced an estimate of Medicaid costs for implementation of this expansion of coverage.

Because this regulation provides States with an option, it is difficult to predict State behavior. On the one hand, it could be assumed that if a State had wanted to use an unemployment standard different from the 100-hour rule, it would have done so already, through the waiver mechanism; by that logic, the additional cost of this regulation would be minimal. On the other hand, the new TANF program, with its new eligibility requirements and its disconnection from Medicaid eligibility, provides new incentives that may not have been present before, and, conceivably all States may wish to immediately avail themselves of the option to change the 100-hour rule. This latter scenario would produce maximum costs. A poll of the States indicated that many had already dropped the 100 hour rule from their TANF program, and conceivably these States would be interested in doing the same for their Medicaid program. For the purposes of this estimate we assumed that expenditures in States that do not currently have waivers would increase so that the cost of this change would ultimately reach three-fourths of the estimated maximum possible amount. Accordingly, we expect this final rule to result in the following costs:

| | 1999 | 2000 | 2001 | 2002 | 2003 |
|---|---|---|---|---|---|
| Federal | $35 | $85 | $140 | $160 | $175 |
| State | 25 | 60 | 105 | 125 | 135 |

($ in millions, rounded to the nearest $5 million).

A separate but similar analysis was conducted for the title IV–E foster care and adoption assistance programs. Because more than 90 percent of children who are eligible for foster care and adoption assistance would qualify for these programs according to other rules unaffected by this revision, we determined that this revision would have no cost impact on foster care or adoption assistance.

These final regulations affect only States and individuals, which are not defined as small entities. We have determined and certify that this final rule with comment period will not have a significant economic impact on small entities under the threshold criteria of the RFA. However, we have provided an analysis of the impact on States and individuals under E.O. 12866. Further, we certify that this final rule with comment period does not have a significant impact on the operations of a substantial number of small rural hospitals.

The only alternative to implementing this provision is not to publish this regulation. However, not publishing this provision would impose additional barriers to family unity and administrative simplification of State Medicaid programs.

There will be an offset for the cost of these final regulations.

In accordance with the provisions of Executive Order 12866, this regulation was reviewed by the Office of Management and Budget.

## IV. Collection of Information Requirements

Under the Paperwork Reduction Act of 1995, agencies are required to provide 60-day notice in the **Federal Register** and solicit public comment before a collection of information requirement is submitted to the Office of Management and Budget (OMB) for review and approval. In order to fairly evaluate whether an information collection should be approved, section 3506(c)(2)(A) of the Paperwork

Reduction Act of 1995 requires that we solicit comment on the following issues:

- Whether the information collection is necessary and useful to carry out the proper functions of the agency;
- The accuracy of the agency's estimate of the information collection burden;
- The quality, utility, and clarity of the information to be collected; and
- Recommendations to minimize the information collection burden on the affected public, including automated collection techniques.

Section 233.101 of this final rule with comment period contains requirements that are subject to review by the Office of Management and Budget under the Paperwork Reduction Act of 1995. The rule requires States to amend their State plans to specify a reasonable standard for measuring unemployment. Public reporting burden for this collection of information is estimated to be 1 hour per State. A notice will be published in the **Federal Register** when approval is obtained. Organizations and individuals desiring to submit comments on the information collection and recordkeeping requirements should direct them to the OMB official and HCFA/OFHR whose names appear in the **ADDRESSES** section of this preamble.

## V. Other Required Information

*A. Waiver of Proposed Rule and 30-Day Delay in the Effective Date*

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** for a substantive rule to provide a period of public comment. However, pursuant to 5 U.S.C. (United States Code) 553(b)(B) we may waive that procedure if we find good cause that notice and comment are impractical, unnecessary, or contrary to the public interest. In addition, we also normally provide a delay of 30 days in the effective date. However, if adherence to this procedure would be impractical, unnecessary, or contrary to public interest, we may waive the delay in the effective date.

We are adopting this regulation as a final rule with comment period without publication of a notice of proposed rulemaking because we believe it would be impractical and contrary to public interest to delay allowing States flexibility in implementing the welfare reform legislation. The effective date for the TANF program depends on the date the State submits a State TANF plan to the Secretary. However, the limit on State funding under title IV–A is effective on October 1, 1996. We believe that it is imperative to allow States as much flexibility as possible, and as soon as possible, to align the eligibility requirements of the Medicaid program with the TANF program to aid administrative simplification and eliminate any disincentive to family unity on the part of recipients. The sooner States have the flexibility to align these programs, the more likely it is that additional individuals will receive needed health coverage. Also, providing States with flexibility at the earliest possible time will minimize unnecessary systems changes they would otherwise incur in making the transition to the post-AFDC environment. Therefore, we find good cause to waive proposed rulemaking and issue these regulations as final.

For reasons discussed above, we also find good cause to waive the usual 30-day delay in the effective date so that the revisions to the definition may take effect upon publication of this final rule with comment period.

Although we are publishing this as a final rule, we are providing a 60-day period for public comment.

*B. Effect of the Contract With America Advancement Act, Pub. L. 104–121*

Normally, under 5 U.S.C. 801, as added by section 251 of Pub. L. 104–121, the effective date of a major rule is delayed 60 days for Congressional review. This has been determined to be a major rule under 5 U.S.C. 804(2). However, as discussed above, for good cause, we find that prior notice and comment procedures are impracticable and contrary to the public interest. Pursuant to 5 U.S.C. 808(2), a major rule shall take effect at such time as the Federal agency promulgating the rule determines if for good cause it finds that notice and public procedure is impracticable or contrary to the public interest. Accordingly, under the exemption provided under 5 U.S.C. 808(2), these regulations are effective August 7, 1998.

## VI. Response to Comments

Because of the large number of items of correspondence we normally receive on Federal Register documents published for comment, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and, if we proceed with a subsequent document, we will respond to the comments in the preamble to that document.

## List of Subjects in 45 CFR Part 233

Aliens, Grant Programs-Social Programs, Public Assistance Programs, Reporting and recordkeeping requirements.

45 CFR Part 233 is amended as follows:

## PART 233—COVERAGE AND CONDITIONS OF ELIGIBILITY IN FINANCIAL ASSISTANCE PROGRAMS

1. The authority citation for part 233 continues to read as follows:

**Authority:** 42 U.S.C. 301, 602, 602 (note), 606, 607, 1202, 1302, 1352, and 1382 (note).

2. In § 233.101, the introductory text of paragraph (a) is republished and paragraph (a)(1) is revised to read as follows:

### § 233.101 Dependent children of unemployed parents.

(a) *Requirements for State plans.* Effective October 1, 1990 (for Puerto Rico, American Samoa, Guam, and the Virgin Islands, October 1, 1992), a State plan must provide for payment of AFDC for children of unemployed parents. A State plan under title IV–A for payment of such aid must:

(1) Include a definition of an unemployed parent who is the principal earner which shall apply only to families determined to be needy in accordance with the provisions in § 233.20 of this part. Such definition must have a reasonable standard for measuring unemployment and, at a minimum, include any such parent who:

(i) Is employed less than 100 hours a month; or

(ii) Exceeds that standard for a particular month, if the work is intermittent and the excess is of a temporary nature as evidenced by the fact that he or she was under the 100-hour standard for the prior 2 months and is expected to be under the standard during the next month; except that at the option of the State, such definition need not include a principal earner who is unemployed because of participation in a labor dispute (other than a strike) or by reason of conduct or circumstances which result or would result in disqualification for unemployment compensation under the State's unemployment compensation law.

* * * * *

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program)

Dated: October 14, 1997.

**Nancy-Ann Min DeParle,**

*Deputy Administrator, Health Care Financing Administration.*

Dated: October 23, 1997.

**Olivia A. Golden,**

*Principal Deputy Assistant Secretary, Administration for Children and Families.*

Dated: January 28, 1998.

**Donna E. Shalala,**

*Secretary.*

[FR Doc. 98–21146 Filed 8–4–98; 1:23 pm]

BILLING CODE 4120–01–P

## FEDERAL COMMUNICATIONS COMMISSION

## 47 CFR Chap. I

**[CC Docket No. 97–134; FCC 98–163]**

## Treatment of the Guam Telephone Authority and Similarly Situated Carriers as Incumbent Local Exchange Carriers

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This Report and Order released July 20, 1998 adopts a rule treating Guam Telephone Authority (GTA) as an incumbent local exchange carrier. Adoption of this rule will ensure that the Territory of Guam has the same opportunity as the rest of our Nation to benefit from pro-competitive, market-opening effects. In the Order, we decline to adopt the same rule with respect to a class or category of LECs situated similarly to GTA, because the record does not identify any members of such class or category.

**EFFECTIVE DATE:** September 8, 1998.

**FOR FURTHER INFORMATION CONTACT:** Alex Starr, Attorney, Common Carrier Bureau, Policy and Program Planning Division, (202) 418–1580. For additional information concerning the information collections contained in this Order contact Judy Boley at (202) 418–0214, or via the Internet at jboley@fcc.gov.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Order adopted July 15, 1998 and released July 20, 1998. The full text of this Order is available for inspection and copying during normal business hours in the FCC Reference Center, 1919 M St., NW., Room 239, Washington, DC. The complete text also may be obtained through the World Wide Web, at http://www.fcc.gov/Bureaus/Common Carrier/Orders/fcc98163.wp, or may be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 1231 20th St., NW., Washington, DC 20036.

### Regulatory Flexibility Certification

In conformance with the Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, we certify that the rule adopted herein will not have a significant economic impact on a substantial number of small entities. Our rule treating GTA as an incumbent LEC pursuant to section 251(h)(2) will affect only GTA and the limited number of entities that seek to interconnect with GTA's network or resell GTA's services. Even if all of these entities can be classified as small entities, we do not believe that they constitute a ''substantial number of small entities'' for purposes of the Regulatory Flexibility Act.

### Synopsis of Report and Order

*I. Introduction*

Pursuant to our express rulemaking authority in section 251(h)(2) of the Communications Act of 1934, as amended (Act or Communications Act), we adopt in this Report and Order the rule proposed by the Commission in *Guam Public Utilities Commission Petition for Declaratory Ruling concerning Sections 3(37) and 251(h) of the Communications Act, Treatment of the Guam Telephone Authority and Similarly Situated Carriers as Incumbent Local Exchange Carriers under Section 251(h)(2) of the Communications Act,* 62 FR 29320, May 30, 1997 (*Guam Ruling/Notice*). In particular, we adopt a rule treating Guam Telephone Authority (GTA) as an incumbent local exchange carrier (LEC) for purposes of section 251. Adoption of this rule will ensure that the Territory of Guam (Guam) has the same opportunity as the rest of our Nation to benefit from the pro-competitive, market-opening effects of the Telecommunications Act of 1996. We decline at this time, however, to adopt the same rule with respect to a class or category of LECs situated similarly to GTA, because the record does not identify any members of such class or category.

*II. Background*

2. In the *Guam Ruling/Notice,* the Commission resolved a Petition for Declaratory Ruling filed by the Public Utilities Commission of the Territory of Guam (Guam Commission) regarding sections 251(h)(1) and 3(37) of the Communications Act. The Commission held that (i) GTA—the only LEC throughout Guam—is not an ''incumbent local exchange carrier'' within the meaning of section 251(h)(1), and (ii) GTA is a ''rural telephone company'' within the meaning of section 3(37).

3. One effect of the Commission's holdings in the *Guam Ruling/Notice* was that GTA could permanently avoid the interconnection, unbundling, resale, and other obligations imposed on incumbent LECs by section 251(c) of the Communications Act. Imposing these obligations on incumbent LECs, including rural telephone companies in appropriate circumstances, is one of the 1996 Act's primary methods of fostering the development of competition in the local exchange market. As a result, in the *Guam Ruling/Notice,* the Commission also issued a Notice of Proposed Rulemaking proposing that the Commission adopt, pursuant to section 251(h)(2) of the Communications Act, a rule providing for the treatment of GTA as an incumbent LEC for purposes of section 251. Under section 251(h)(2), the Commission ''may, by rule, provide for the treatment of a local exchange carrier (or class or category thereof) as an incumbent local exchange carrier for purposes of (section 251)'' if:

> (A) such carrier occupies a position in the market for telephone exchange service within an area that is comparable to the position occupied by a carrier described in paragraph (1); (B) such carrier has substantially replaced an incumbent local exchange carrier described in paragraph (1); and (C) such treatment is consistent with the public interest, convenience, and necessity and the purposes of this section. 47 U.S.C. 251 (h)(2).

4. In the *Guam Ruling/Notice,* the Commission sought comment on the proposal therein to adopt a rule pursuant to section 251(h)(2) treating GTA as an incumbent LEC for purposes of section 251. The Commission also sought comment regarding whether LECs situated similarly to GTA exist and, if so, whether the Commission should adopt the same rule with respect to such class or category of LECs.

*III. Discussion*

5. hereby adopt in this Report and Order the rule proposed by the Commission in the *Guam Ruling/Notice.* In particular, pursuant to our express rulemaking authority in section 251(h)(2) of the Act, we adopt a rule treating GTA as an incumbent LEC for purposes of section 251.

6. We decline at this time, however, to adopt a general rule under section 251(h)(2) treating as incumbent LECs all members of a class or category of LECs situated similarly to GTA. We so decline because the record does not indicate

that any LEC situated similarly to GTA exists. We may revisit this issue if and when we become aware of the existence of a LEC or class or category of LECs similarly situated to GTA.

*IV. Final Regulatory Flexibility Analysis*

7. Pursuant to the Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), the Commission certified in the *Guam Ruling/Notice* that the proposed rule would not have a significant economic impact on a substantial number of small entities. We received no comments regarding this certification.

8. In conformance with the RFA, as amended by the SBREFA, we certify that the rule adopted herein will not have a significant economic impact on a substantial number of small entities. Our rule treating GTA as an incumbent LEC pursuant to section 251(h)(2) will affect only GTA and the limited number of entities that seek to interconnect with GTA's network or resell GTA's services. Even if all of these entities can be classified as small entities, we do not believe that they constitute a ''substantial number of small entities'' for purposes of the Regulatory Flexibility Act.

9. The Commission's Office of Public Affairs, Reference Operations Division, shall send a copy of this Report and Order, including the foregoing certification and statement, to the Chief Counsel for Advocacy of the Small Business Administration. It shall also include a copy of this Report and Order, including the foregoing certification and statement, in the report to Congress.

## V. Ordering Clauses

10. Accordingly, it is ordered, pursuant to sections 1, 2, 4, 251, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154, 251, and 303(r), that the report and order is adopted, and the requirements contained herein shall become effective September 8, 1998.

Federal Communications Commission.

**Magalie Roman Salas,**

*Secretary.*

[FR Doc. 98–21087 Filed 8–6–98; 8:45 am]

BILLING CODE 6712–01–P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 2, 15 and 97

**[ET Docket No. 94–124; FCC 98–150]**

## Use of Radio Frequencies Above 40 GHz for New Radio Applications

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** By this *Third Report and Order* (R&O) the Commission amends the rules to: provide amateur and amateur-satellite operators co-primary status in the 77.5–78 GHz frequency band to ensure that future amateur station access to spectrum near 77 GHz is maintained without the threat of preemption by higher priority services; restrict amateur and amateur-satellite operations in the 76–77 GHz frequency band to ensure against potential interference to vehicle radar systems that we expect will operate in this band; adopt a spectrum etiquette for unlicensed devices operating in the 59–64 GHz frequency band to provide a spectrum etiquette that maximizes the number of users and minimizes the potential for interference in the 59–64 GHz band; and adopt spurious emission limits for unlicensed equipment operating in the 76–77 GHz frequency band to provide protection to radio astronomy operations in the 217–231 GHz band.

**EFFECTIVE DATE:** This rule is effective September 8, 1998, except the addition of § 2.1033(b)(12) which is effective October 5, 1998.

**FOR FURTHER INFORMATION CONTACT:** Rodney P. Conway (202) 418–2904 or via electronic mail: rconway@fcc.gov. For additional information concerning the information collections, or copies of the information collections contained in this *Third Report and Order* contact Judy Boley at (202) 418–0217, or via electronic mail at jboley@fcc.gov.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Third Report and Order,* ET Docket 94–124, FCC 98–150, adopted July 6, 1998 and released July 15, 1998.

A full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, N.W., Washington, D.C., and also may be purchased from the Commission's duplication contractor, International Transcription Service, phone (202) 857–3800, facsimile (202) 857–3805, 1231 20th Street, N.W. Washington, DC 20036.

### Summary of the Third Report and Order

1. This *Third Report and Order* amends the rules to restrict amateur and amateur-satellite operations in the 76–77 GHz frequency band. The Commission is adopting its proposal to suspend access to the 76–77 GHz band by amateur stations in order to ensure against potential interference to vehicle radar systems that we expect will operate in this band. Thus, this action will not have an immediate impact on amateur operators because there is little or no use of this band. Further, we are unable to ascertain what future amateur station transmissions might take place in this band and therefore cannot evaluate the potential for interference to vehicle radar systems. Because harmful interference to vehicle radar systems could affect public safety, we will proceed with the utmost amount of caution.

2. The *Third Report and Order* also amends the rules to establish a co-primary frequency allotment for use by amateur and amateur-satellite operators in the 77.5–78 GHz frequency band. The Commission believes that upgrading the status of the Amateur Radio Services, including amateur and amateur-satellite operations, to co-primary in the 77.5–78 GHz band is needed to ensure that future amateur station access to spectrum near 77 GHz is maintained without the threat of preemption by higher priority services. The Commission believes that this allocation is needed if we are to continue to foster amateur operator experimentation using millimeter wave technology.

3. The *Third Report and Order* also amends the rules to establish a spectrum etiquette for unlicensed devices operating in the 59–64 GHz frequency band. The Commission believes that the adopted spectrum etiquette provides the best plan to maximize the number of users and minimize the potential for interference in the 59–64 GHz band. The coordination channel from 59.0–59.05 GHz provides access to spectrum that will be used to determine methods of limiting potential interference and establishing techniques for spectrum sharing between diverse systems. In addition, the transmitter output power and peak emission limits will minimize the potential for interference and provide for greater spectrum reuse. Moreover, the transmitter identification requirement for transmitters operating with more than 0.1 mW of output power is essential to provide for successful sharing and coordination between users. We note that, no comments were filed expressing opposition to the proposed

spectrum etiquette. We believe the etiquette adopted herein will accelerate the development of low cost devices.

4. The *Third Report and Order* also amends the rules to establish spurious emission limits for unlicensed equipment operating in the 76–77 GHz frequency band. Within the 217–231 GHz band, the Commission is adopting a spurious emission limit of 1000 pW/cm$^2$, as measured at 3 meters, for unlicensed millimeter wave transmitters that operate in the 76–77 GHz band. We are relying on NTIA's suggestion to limit the spurious emissions to 1000 pW/cm$^2$ as being sufficient to provide adequate protection to radio astronomy operations in the 217–231 GHz band. In addition, we note that emissions in this frequency range tend to be highly focused and directional. Given that radio astronomy equipment discriminates against off-beam signals and that vehicle radars will be used when in motion, we believe there is little likelihood of interference to radio astronomy operations.

**Final Regulatory Flexibility Analysis**

5. As required by Section 603 of the Regulatory Flexibility Act, 5 U.S.C. 603 (''RFA''), an Initial Regulatory Flexibility Analysis (''IRFA'') was incorporated into the Second Notice of Proposed Rule Making, 61 FR 14041, March 29, 1996, (''2nd NPRM'') and the Fourth Notice of Proposed Rule Making, 62 FR 45380, August 27, 1997, (''4th NPRM'') in ET Docket No. 94–124. The Commission sought written public comments on the proposals in the 2nd NPRM and 4th NPRM, including the IRFAs. The Commission's Final Regulatory Flexibility Analysis (''FRFA'') in this Third Report and Order conforms to the RFA, as amended by the Contract with America Advancement Act of 1996 (CWAAA), Public Law 104–121, 110 Stat. 847 (1996). See Subtitle II of the CWAAA is ''The Small Business Regulatory Enforcement Fairness Act of 1996'' (SBREFA), codified at 5 U.S.C. 601 *et seq*.

6. *Need for and Objective of the Rules.* Our objectives are to adopt a spectrum etiquette that provides for a maximum number of operators in the unlicensed 59–64 GHz band, to temporarily restrict amateur station access to the 76–77 GHz band until an effective spectrum sharing plan is developed to permit use of the band by vehicular radar systems and amateur stations, to provide amateur stations co-primary access to spectrum in the 77.5–78 GHz band to offset any negative effects of the temporary restriction in the 76–77 GHz band, and to establish an emissions limit above 200 GHz for some millimeter wave transmitters in order to protect radio astronomy users in the 217–231 GHz band.

7. *Summary of Significant Issues Raised by Public Comments in Response to the IRFAs.* No comments were submitted in direct response to either IRFA.

8. *Description and Estimates of the Number of Small Entities to Which the Rules Will Apply.* For the purposes of this Third Report and Order, the RFA defines a ''small business'' to be the same as a ''small business concern'' under the Small Business Act, 15 U.S.C. 632, unless the Commission has developed one or more definitions that are appropriate to its activities. *See* 5 U.S.C. 601(3) (incorporating by reference the definition of ''small business concern'' in 5 U.S.C. 632). Under the Small Business Act, a ''small business concern'' is one that: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) meets any additional criteria established by the Small Business Administration (SBA). *See* 15 U.S.C. 632. Since the Regulatory Flexibility Act amendments were not in effect until the record in this proceeding was closed, the Commission did not request information regarding the number of small businesses that might use this service and is unable at this time to determine the number of small businesses that would be affected by this action.

9. The Commission has not developed a definition of small entities applicable to unlicensed communications devices. Therefore, we will utilize the SBA definition applicable to manufacturers of Radio and Television Broadcasting and Communications Equipment. According to the SBA regulations, unlicensed transmitter manufacturers must have 750 or fewer employees in order to qualify as a small business concern. *See* 13 CFR 121.201, (SIC) Code 3663. Census Bureau data indicates that there are 858 U.S. companies that manufacture radio and television broadcasting and communications equipment, and that 778 of these firms have fewer than 750 employees and would be classified as small entities. *See* U.S. Dept. of Commerce, *1992 Census of Transportation, Communications and Utilities* (issued May 1995), SIC category 3663. The Census Bureau category is very broad, and specific figures are not available as to how many of these firms will manufacture unlicensed communications devices. However, we believe that many of them may qualify as small entities.

10. As noted, this section describes and estimates the number of small entities to which the proposed rules apply. The rules in Part 97 of the Commission's Rules, 47 CFR Part 97, apply to individuals who are qualified to be licensees in the amateur service, and amateur radio operators are prohibited from transmitting communications for compensation, for their pecuniary benefit, and on behalf of their employers. *See* 47 CFR 97.113. Amateur radio licensees are therefore not addressed in this regulatory flexibility analysis.

11. *Description of Projected Reporting, Recordkeeping and Other Compliance Requirements.* The Commission has adopted rules that limit the level of emissions between 217–231 GHz and implement a spectrum etiquette for systems operating in the 59–64 GHz band. Measurements of the emission levels and spectrum etiquette will be reported to the Commission as part of the normal equipment authorization process under our certification procedure.

12. *Significant Alternatives and Steps Taken To Minimize Significant Economic Impact on a Substantial Number of Small Entities Consistent With Stated Objectives.* No alternatives or other steps were addressed in this proceeding.

13. *Report to Congress.* The Commission shall send a copy of this Final Regulatory Flexibility Analysis, along with this Third Report and Order, in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 801(a)(1)(A).

**List of Subjects**

*47 CFR Part 2*

Communications equipment, Radio.

*47 CFR Part 15*

Communications equipment, Highway safety, Radio.

*47 CFR Part 97*

Radio.

Federal Communications Commission.

**Magalie Roman Salas,**

*Secretary.*

**Rule Changes**

Accordingly, title 47 of the Code of Federal Regulations, parts 2, 15, and 97 are amended as follows:

## PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

1. The authority for part 2 continues to read as follows:

**Authority:** 47 U.S.C. 154, 302, 303, 307 and 336, unless otherwise noted.

2. Section 2.106, the Table of Frequency Allocations, is amended by revising the entry for 76–77 GHz, by removing the entry for 77–81 GHz, and adding new entries for 77–77.5 GHz, 77.5–78 GHz, and 78–81 GHz to read as follows:

**§ 2.106 Table of Frequency Allocations.**

* * * * *

| International table | | | United States table | | FCC use designators | |
|---|---|---|---|---|---|---|
| | | | Government | Non-Government | | |
| Region 1— allocation GHz | Region 2—allocation GHz | Region 3—allocation GHz | Allocation GHz | Allocation GHz | Rule part(s) | Special-use frequencies |
| (1) | (2) | (3) | (4) | (5) | (6) | (7) |
| * | * | * | * | * | * | * |
| 76–77 RADIO-LOCATION Amateur Amateur-Satellite Space Research (space-to-Earth). | 76–77 RADIO-LOCATION Amateur Amateur-Satellite Space Research (space-to-Earth). | 76–77 RADIO-LOCATION Amateur Amateur-Satellite Space Research (space-to-Earth). | 76–77 RADIO-LOCATION. | 76–77 RADIO-LOCATION Amateur. | RADIO FREQUENCY DEVICES (15). | |
| 77–77.5 RADIO-LOCATION Amateur Amateur-Satellite Space Research (space-to-Earth). | 77–77.5 RADIO-LOCATION Amateur Amateur-Satellite Space Research (space-to-Earth). | 77–77.5 RADIO-LOCATION Amateur Amateur-Satellite Space Research (space-to-Earth). | 77–77.5 RADIO-LOCATION. | 77–77.5 RADIO-LOCATION Amateur Amateur-Satellite. | Amateur (97) ..... | |
| 77.5–78 RADIO-LOCATION Amateur Amateur-Satellite Space Research (space-to-Earth). | 77.5–78 RADIO-LOCATION Amateur Amateur-Satellite Space Research (space-to-Earth). | 77.5–78 RADIO-LOCATION Amateur Amateur-Satellite Space Research (space-to-Earth). | 77.5–78 RADIO-LOCATION. | 77.5–78 RADIO-LOCATION AMATEUR AMATEUR-SATELLITE. | AMATEUR (97) ... | |
| 78–81 RADIO-LOCATION Amateur Amateur-Satellite Space Research (space-to-Earth). | 78–81 RADIO-LOCATION Amateur Amateur-Satellite Space Research (space-to-Earth). | 78–81 RADIO-LOCATION Amateur Amateur-Satellite Space Research (space-to-Earth). | 78–81 RADIO-LOCATION 912. | 78–81 RADIO-LOCATION Amateur Amateur-Satellite 912. | Amateur (97) ..... | |

* * * * * * *

3. Section 2.1033, presently in effect, is amended by adding a new paragraph (b)(13) to read as follows:

**§ 2.1033 Application for certification.**

* * * * *

(b) * * *

(13) Applications for certification of transmitters operating within the 59.0–64.0 GHz band under part 15 of this chapter shall also be accompanied by an exhibit demonstrating compliance with the provisions of § 15.255 (g) and (i) of this chapter.

* * * * *

3A. Section 2.1033 as revised effective October 5, 1998, is amended by adding new paragraph (b)(12) to read as follows:

**§ 2.1033 Application for certification.**

* * * * *

(b) * * *

(12) Applications for certification of transmitters operating within the 59.0–64.0 GHz band under part 15 of this chapter shall also be accompanied by an exhibit demonstrating compliance with the provisions of § 15.255 (g) and (i) of this chapter.

* * * * *

## PART 15—RADIO FREQUENCY DEVICES

4. The authority citation for part 15 continues to read as follows:

**Authority:** 47 U.S.C. 154, 302, 303, 304, 307 and 544A.

5. Section 15.31 is amended by revising paragraph (f)(1) to read as follows:

**§ 15.31 Measurement standards.**

* * * * *

(f) * * *

(1) At frequencies at or above 30 MHz, measurements may be performed at a distance other than what is specified provided: measurements are not made in the near field except where it can be shown that near field measurements are appropriate due to the characteristics of the device; and it can be demonstrated that the signal levels needed to be measured at the distance employed can be detected by the measurement equipment. Measurements shall not be performed at a distance greater than 30 meters unless it can be further demonstrated that measurements at a distance of 30 meters or less are impractical. When performing measurements at a distance other than that specified, the results shall be extrapolated to the specified distance using an extrapolation factor of 20 dB/decade (inverse linear-distance for field strength measurements; inverse-linear-distance-squared for power density measurements).

* * * * *

6. Section 15.33 is amended by revising paragraph (a)(3) to read as follows:

**§ 15.33 Frequency range of radiated measurements.**

(a) * * *

(3) If the intentional radiator operates at or above 30 GHz: to the fifth

harmonic of the highest fundamental frequency or to 200 GHz, whichever is lower, unless specified otherwise elsewhere in the rules.

* * * * *

7. Section 15.35 is amended by revising paragraphs (b) and (c) to read as follows:

**§ 15.35 Measurement detector functions and bandwidths.**

* * * * *

(b) On any frequency of frequencies above 1000 MHz, the radiated limits shown are based upon the use of measurement instrumentation employing an average detector function. When average radiated emission measurements are specified in the regulations, including emission measurements below 1000 MHz, there is also a limit on the radio frequency emissions, as measured using instrumentation with a peak detector function, corresponding to 20 dB above the maximum permitted average limit for the frequency being investigated unless a different peak emission limit is otherwise specified in the rules in this part, *e.g.*, see § 15.255. Unless otherwise specified, measurements above 1000 MHz shall be performed using a minimum resolution bandwidth of 1 MHz. Measurement of AC power line conducted emissions are performed using a CISPR quasi-peak detector, even for devices for which average radiated emission measurements are specified.

(c) Unless otherwise specified, *e.g.* § 15.255(b), when the radiated emission limits are expressed in terms of the average value of the emission, and pulsed operation is employed, the measurement field strength shall be determined by averaging over one complete pulse train, including blanking intervals, as long as the pulse train does not exceed 0.1 seconds. As an alternative (provided the transmitter operates for longer than 0.1 seconds) or in cases where the pulse train exceeds 0.1 seconds, the measured field strength shall be determined from the average absolute voltage during a 0.1 second interval during which the field strength is at its maximum value. The exact method of calculating the average field strength shall be submitted with any application for certification or shall be retained in the measurement data file for equipment subject to notification or verification.

8. Section 15.253 is amended by revising paragraph (c) to read as follows.

**§ 15.253 Operation within the bands 46.7–46.9 GHz and 76.0–77.0 GHz.**

* * * * *

(c) The power density of any emissions outside the operating band shall consist solely of spurious emissions and shall not exceed the following:

(1) Radiated emissions below 40 GHz shall not exceed the general limits in § 15.209.

(2) Radiated emissions outside the operating band and between 40 GHz and 200 GHz shall not exceed the following:

(i) For vehicle-mounted field disturbance sensors operating in the band 46.7–46.9 GHz: 2 pW/cm² at a distance of 3 meters from the exterior surface of the radiating structure.

(ii) For forward-looking vehicle-mounted field disturbance sensors operating in the band 76–77 GHz: 600 pW/cm² at a distance of 3 meters from the exterior surface of the radiating structure.

(iii) For side-looking or rear-looking vehicle-mounted field disturbance sensors operating in the band 76–77 GHz: 300 pW/cm² at a distance of 3 meters from the exterior surface of the radiating structure.

(3) For radiated emissions above 200 GHz from field disturbance sensors operating in the 76–77 GHz band: the power density of any emission shall not exceed 1000 pW/cm² at a distance of 3 meters from the exterior surface of the radiating structure.

(4) For field disturbance sensors operating in the 76–77 GHz band, the spectrum shall be investigated up to 231 GHz.

* * * * *

9. Section 15.255 is revised to read as follows:

**§ 15.255 Operation within the band 59.0–64.0 GHz.**

(a) Operation under the provisions of this section is not permitted for the following products:

(1) Equipment used on aircraft or satellites.

(2) Field disturbance sensors, including vehicle radar systems, unless the field disturbance sensors are employed for fixed operation. For the purposes of this section, the reference to fixed operation includes field disturbance sensors installed in fixed equipment, even if the sensor itself moves within the equipment.

(b) Within the 59–64 GHz band, emission levels shall not exceed the following:

(1) For products other than fixed field disturbance sensors, the average power density of any emission, measured during the transmit interval, shall not exceed 9 μW/cm², as measured 3 meters from the radiating structure, and the peak power density of any emission shall not exceed 18 μW/cm², as measured 3 meters from the radiating structure.

(2) For fixed field disturbance sensors that occupy 500 MHz or less of bandwidth and that are contained wholly within the frequency band 61.0–61.5 GHz, the average power density of any emission, measured during the transmit interval, shall not exceed 9 μW/cm², as measured 3 meters from the radiating structure, and the peak power density of any emission shall not exceed 18 μW/cm², as measured 3 meters from the radiating structure. In addition, the average power density of any emission outside of the 61.0–61.5 GHz band, measured during the transmit interval, but still within the 59–64 GHz band, shall not exceed 9 nW/cm², as measured 3 meters from the radiating structure, and the peak power density of any emission shall not exceed 18 nW/cm², as measured three meters from the radiating structure.

(3) For fixed field disturbance sensors other than those operating under the provisions of paragraph (b)(2) of this section, the peak transmitter output power shall not exceed 0.1 mW and the peak power density shall not exceed 9 nW/cm² at a distance of 3 meters.

(4) Peak power density shall be measured with an RF detector that has a detection bandwidth that encompasses the 59–64 GHz band and has a video bandwidth of at least 10 MHz, or using an equivalent measurement method.

(5) The average emission limits shall be calculated, based on the measured peak levels, over the actual time period during which transmission occurs.

(c) Limits on spurious emissions:

(1) The power density of any emissions outside the 59.0–64.0 GHz band shall consist solely of spurious emissions.

(2) Radiated emissions below 40 GHz shall not exceed the general limits in § 15.209.

(3) Between 40 GHz and 200 GHz, the level of these emissions shall not exceed 90 pW/cm² at a distance of 3 meters.

(4) The levels of the spurious emissions shall not exceed the level of the fundamental emission.

(d) Only spurious emissions and transmissions related to a publicly-accessible coordination channel, whose purpose is to coordinate operation between diverse transmitters with a view towards reducing the probability of interference throughout the 59–64 GHz band, are permitted in the 59.0–59.05 GHz band.

**Note to paragraph (d):** The 59.0–59.05 GHz is reserved exclusively for a publicly-accessible coordination channel. The development of standards for this channel

shall be performed pursuant to authorizations issued under part 5 of this chapter.

(e) Except as specified elsewhere in this paragraph (e), the total peak transmitter output power shall not exceed 500 mW.

(1) Transmitters with an emission bandwidth of less than 100 MHz must limit their peak transmitter output power to the product of 500 mW times their emission bandwidth divided by 100 MHz. For the purposes of this paragraph (e)(1), emission bandwidth is defined as the instantaneous frequency range occupied by a steady state radiated signal with modulation, outside which the radiated power spectral density never exceeds 6 dB below the maximum radiated power spectral density in the band, as measured with a 100 kHz resolution bandwidth spectrum analyzer. The center frequency must be stationary during the measurement interval, even if not stationary during normal operation (e.g. for frequency hopping devices).

(2) Peak transmitter output power shall be measured with an RF detector that has a detection bandwidth that encompasses the 59–64 GHz band and that has a video bandwidth of at least 10 MHz, or using an equivalent measurement method.

(3) For purposes of demonstrating compliance with this paragraph (e), corrections to the transmitter output power may be made due to the antenna and circuit loss.

(f) Fundamental emissions must be contained within the frequency bands specified in this section during all conditions of operation. Equipment is presumed to operate over the temperature range −20 to +50 degrees celsius with an input voltage variation of 85% to 115% of rated input voltage, unless justification is presented to demonstrate otherwise.

(g) Regardless of the power density levels permitted under this section, devices operating under the provisions of this section are subject to the radiofrequency radiation exposure requirements specified in §§ 1.1307(b), 2.1091 and 2.1093 of this chapter, as appropriate. Applications for equipment authorization of devices operating under this section must contain a statement confirming compliance with these requirements for both fundamental emissions and unwanted emissions. Technical information showing the basis for this statement must be submitted to the Commission upon request.

(h) Any transmitter that has received the necessary FCC equipment authorization under the rules of this chapter may be mounted in a group installation for simultaneous operation with one or more other transmitter(s) that have received the necessary FCC equipment authorization, without any additional equipment authorization. However, no transmitter operating under the provisions of this section may be equipped with external phase-locking inputs that permit beam-forming arrays to be realized.

(i) Within any one second interval of signal transmission, each transmitter with a peak output power equal to or greater than 0.1 mW or a peak power density equal to or greater than 3 nW/cm$^2$, as measured 3 meters from the radiating structure, must transmit a transmitter identification at least once. Each application for equipment authorization must declare that the equipment contains the required transmitter identification feature and must specify a method whereby interested parties can obtain sufficient information, at no cost, to enable them to fully detect and decode this transmitter identification information. Upon the completion of decoding, the transmitter identification data block must provide the following fields:

(1) FCC Identifier, which shall be programmed at the factory.

(2) Manufacturer's serial number, which shall be programmed at the factory.

(3) Provision for at least 24 bytes of data relevant to the specific device, which shall be field programmable. The grantee must implement a method that makes it possible for users to specify and update this data. The recommended content of this field is information to assist in contacting the operator.

## PART 97—AMATEUR RADIO SERVICE

10. The authority citation for part 97 continues to read as follows:

**Authority:** 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151–155, 301–609, unless otherwise noted.

11. Section 97.301 is amended in the table in paragraph (a), by revising the entry for 4 mm under the EHF wavelength band to read as follows:

**§ 97.301 Authorized frequency bands.**

* * * * *

(a) * * *

| Wavelength band | ITU—Region 1 | ITU—Region 2 | ITU—Region 3 | Sharing requirements see § 97.303 (Paragraph) |
|---|---|---|---|---|
| * * * * | * | * | * | * |
| EHF | GHz | GHz | GHz | |
| * * * * | * | * | * | * |
| 4 mm | 75.5–81.0 | 75.5–81.0 | 75.5–81.0 | (b), (c), (h), (r). |
| * * * * | * | * | * | * |

* * * * *

12. Section 97.303 is amended by revising paragraphs (b), (c) and (h) and by adding a new paragraph (r), to read as follows:

**§ 97.303 Frequency sharing requirements.**

* * * * *

(b) No amateur station transmitting in the 1900–2000 kHz segment, the 70 cm band, the 33 cm band, the 13 cm band, the 9 cm band, the 5 cm band, the 3 cm band, the 24.05–24.25 GHz segment, the 77.0–77.5 GHz segment, the 78–81 GHz segment, the 144–149 GHz segment, and the 241–248 GHz segment shall cause harmful interference to, nor is protected from interference due to the operation of, the Government radiolocation service.

(c) No amateur station transmitting in the 1900–2000 kHz segment, the 3 cm band, the 77.0–77.5 GHz segment, the 78–81 GHz segment, the 144–149 GHz segment, and the 241–248 GHz segment shall cause harmful interference to, nor is protected from interference due to the operation of, stations in the non-Government radiolocation service.

* * * * *

(h) No amateur station transmitting in the 23 cm band, the 3 cm band, the 24.05–24.25 GHz segment, the 77–77.5 GHz segment, the 78–81 GHz segment, the 144–149 GHz segment, and the 241–248 GHz segment shall cause harmful interference to, nor is protected from interference due to the operation of, stations authorized by other nations in the radiolocation service.

* * * * *

(r) In the 4 mm band:

(1) Authorization of the 76–77 GHz segment of the 4 mm band for amateur station transmissions is suspended until such time that the Commission may determine that amateur station transmissions in this segment will not pose a safety threat to vehicle radar systems operating in this segment.

(2) In places where the amateur service is regulated by the FCC, the 77.5–78 GHz segment is allocated to the amateur service and amateur-satellite service on a co-primary basis with the Government and non-Government radiolocation services.

[FR Doc. 98–20361 Filed 8–6–98; 8:45 am]

BILLING CODE 6712–01–P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

**[MM Docket No. 98–38; RM–9223]**

### Radio Broadcasting Services; Fowler, IN

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document allots Channel 291A to Fowler, Indiana, as that community's first local aural transmission service in response to a petition filed by Kevin R. Page. *See* 63 FR 17145, April 8, 1998. Coordinates used for Channel 291A at Fowler are 40–38–05 and 87–18–46. With this action, the proceeding is terminated.

**DATES:** Effective July 13, 1998. A filing window for Channel 291A at Fowler, Indiana, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a separate Order.

**FOR FURTHER INFORMATION CONTACT:** Nancy Joyner, Mass Media Bureau, (202) 418–2180. Questions related to the application filing process should be addressed to the Audio Services Division, (202) 418–2700.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order, MM Docket No. 98–38, adopted May 20, 1998, and released May 29, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

**List of Subjects in 47 CFR Part 73**

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

### PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334, 336.

**§ 73.202 [Amended]**

2. Section 73.202(b), the Table of FM Allotments under Indiana, is amended by adding Fowler, Channel 291A.

Federal Communications Commission.

**John A. Karousos,**

*Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 98–21140 Filed 8–6–98; 8:45 am]

BILLING CODE 6712–01–P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

**[MM Docket No. 97–226; RM–9184]**

### Radio Broadcasting Services; Prineville, OR

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission, at the request of Michael Mattson and Kenneth Lewetag, allots Channel 254C3 to Prineville, OR, as the community's second local FM service. *See* 62 FR 61720, November 19, 1997. Channel 254C3 can be allotted to Prineville in compliance with the Commission's minimum distance separation requirements with a site restriction of 10.6 kilometers (6.6 miles) southeast, at coordinates 44–13–30 North Latitude and 120–46–30 West Longitude, to avoid a short-spacing to Station KUPL–FM, Channel 254C1, Portland, OR. With this action, this proceeding is terminated.

**DATES:** Effective May 4, 1998. A filing window for Channel 254C3 at Prineville, OR, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

**FOR FURTHER INFORMATION CONTACT:** Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order, MM Docket No. 97–226, adopted March 11, 1998, and released March 20, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

**List of Subjects in 47 CFR Part 73**

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

### PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334. 336.

**§ 73.202 [Amended]**

2. Section 73.202(b), the Table of FM Allotments under Oregon, is amended by adding Channel 254C3 at Prineville.

Federal Communications Commission.

**John A. Karousos,**

*Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 98–21139 Filed 8–6–98; 8:45 am]

BILLING CODE 6712–01–P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Part 679

**[Docket No. 971208297–8054–02; I.D. 080398A]**

### Fisheries of the Economic Exclusive Zone Off Alaska; Shallow-water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska

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

**ACTION:** Closure.

**SUMMARY:** NMFS is prohibiting directed fishing for species that comprise the shallow-water species fishery by vessels using trawl gear in the Gulf of Alaska (GOA), except for vessels fishing for pollock using pelagic trawl gear in those portions of the GOA open to directed fishing for pollock. This action is necessary because the third seasonal bycatch allowance of Pacific halibut apportioned to the shallow-water species fishery in the GOA has been caught.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), August 3, 1998, until 1200 hrs, A.l.t., October 1, 1998.

**FOR FURTHER INFORMATION CONTACT:** Mary Furuness, 907–586–7447.

**SUPPLEMENTARY INFORMATION:** The groundfish fishery in the GOA exclusive economic zone is managed by NMFS according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at subpart H of 50 CFR part 600 and 50 CFR part 679.

The prohibited species bycatch mortality allowance of Pacific halibut for the GOA trawl shallow-water species fishery, which is defined at § 679.21(d)(3)(iii)(A), was established by the Final 1998 Harvest Specifications of Groundfish for the GOA (63 FR 12027, March 12, 1998) for the third season, the period July 1, 1998 through September 30, 1998, as 200 mt.

In accordance with § 679.21(d)(7)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the third seasonal apportionment of the 1998 Pacific halibut bycatch mortality allowance specified for the trawl shallow-water species fishery in the GOA has been caught. Consequently, NMFS is prohibiting directed fishing for the shallow-water species fishery by vessels using trawl gear in the GOA, except for vessels fishing for pollock using pelagic trawl gear in those portions of the GOA open to directed fishing for pollock. The species and species groups that comprise the shallow-water species fishery are pollock, Pacific cod, shallow-water flatfish, flathead sole, Atka mackerel, and ''other species''.

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

## Classification

This action responds to the best available information recently obtained from the fishery. It must be implemented immediately in order to prevent overharvesting the third seasonal bycatch allowance of Pacific halibut apportioned to the shallow-water species fishery in the GOA. A delay in the effective date is impracticable and contrary to the public interest. The third seasonal bycatch allowance of Pacific halibut apportioned to the shallow-water species fishery in the GOA has been caught. Further delay would only result in overharvest. NMFS finds for good cause that the implementation of this action can not be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by § 679.21 and is exempt from review under E.O. 12866.

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

Dated: August 3, 1998.

**Bruce Morehead,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 98–21084 Filed 8–3–98; 4:38 pm]

BILLING CODE 3510–22–F

# Proposed Rules

Federal Register
Vol. 63, No. 152
Friday, August 7, 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.

## DEPARTMENT OF AGRICULTURE

### Office of the Secretary

### 7 CFR Part 17

**RIN 0551–AA54**

## Regulations Governing the Financing of Commercial Sales of Agricultural Commodities

**AGENCY:** Commodity Credit Corporation.

**ACTION:** Proposed rule.

**SUMMARY:** The Commodity Credit Corporation (CCC) proposes to revise the regulations applicable to the financing of the sale and exportation of agricultural commodities pursuant to title I of the Agricultural Trade Development and Assistance Act of 1954, as amended (Pub. L. 480). The proposed rule would permit a waiver of the present requirement that only private entities with a business office or agent in the United States are eligible to enter into title I, Pub. L. 480 agreements when the General Sales Manager determines that there is adequate assurance of repayment to CCC. This change would allow additional foreign private entities to participate in title I, and thereby increase exports of U.S. agricultural commodities.

**DATES:** Comments on this rule must be received by September 8, 1998.

**ADDRESSES:** Comments should be sent to Grant Pettrie, Acting Director, Program Development Division, Foreign Agricultural Service, U.S. Department of Agriculture, Room 4506, South Building, Stop 1034, Washington, D.C. 20250–1034.

**FOR FURTHER INFORMATION CONTACT:** Grant Pettrie, Acting Director, Program Development Division, Foreign Agricultural Service, U.S. Department of Agriculture, Room 4506, South Building, Stop 1034, Washington, D.C. 20250–1034; telephone: (202) 720–4221; Facsimile: (202) 690–0251.

**SUPPLEMENTARY INFORMATION:** This proposed rule is issued in conformance with Executive Order 12866. Based on information compiled by the Department, it has been determined that this proposed rule:

(1) Would have an annual effect on the economy of less than $100 million;

(2) Would not adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(3) Would not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(4) Would not alter the budgetary impact of entitlements, grants, user fees, or loan programs or rights and obligations of recipients thereof; and

(5) Would not raise novel legal or policy issues arising out of legal mandates, the President's priorities, or principles set forth in Executive Order 12866.

### Regulatory Flexibility Act

This proposed rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act. The Vice President, CCC, who is the General Sales Manager, has certified that this rule will not have a significant economic impact on a substantial number of small entities.

Under title I, P. L. 480 CCC enters into agreements with foreign governments or private entities to finance their purchase and importation of U.S. agricultural commodities. The proposed rule would allow a waiver of an existing program requirement that restricts the eligibility of businesses in foreign countries to enter into these agreements with CCC. A copy of this proposed rule has been submitted to the General Counsel, Small Business Administration.

### Executive Order 12372

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with state and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115 (June 24, 1983).

### Paperwork Reduction Act

The information collection requirements imposed by this proposed rule have been previously submitted to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). OMB has assigned control number 0551–0005 for this information collection. This proposed rule would not require the collection of additional information.

### Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. The proposed rule would have preemptive effect with respect to any state or local laws, regulations, or policies which conflict with such provisions or which otherwise impede their full implementation. The final rule would not have retroactive effect. The rule does not require that administrative remedies be exhausted before suit may be filed.

### Background

Title I of the Agricultural Trade Development and Assistance Act of 1954, as amended (Pub. L. 480) authorizes CCC to finance the sale and exportation of agricultural commodities on concessional credit terms, 7 U.S.C. 1701 *et seq.* On October 10, 1997, CCC published a final rule (62 FR 52929) amending the regulations governing Pub. L. 480 to, among other things, provide that CCC may enter into title I, P. L. 480 agreements with private entities. However, that rule requires that, in order to be eligible for a title I, P. L. 480 agreement, a private entity must maintain a bona fide business office in the United States and have a person, principal, or agent on whom service of judicial process may be had in the United States.

The purpose of requiring that private entities have a presence in the United States was to make them more amenable to legal process in the case of a default in repayment to CCC. It appears, however, that this requirement could restrict participation by some foreign private entities that could not meet this requirements in a practical manner. This could limit CCC's flexibility in programming and eliminate consideration of viable export opportunities that would otherwise further the purposes of title I, Pub. L. 480. Consequently, this proposed rule would allow the General Sales Manager to waive this requirement if the foreign private entity provides adequate assurances of repayment to CCC for the financing extended to it under the Pub. L. 480 agreement. It is not necessary to

identify in advance what may constitute adequate assurances of repayment because options may vary considerably depending upon foreign private entities and the country involved.

**List of Subjects in 7 CFR Part 17**

Agricultural commodities, Exports, Finance, Maritime carriers.

Accordingly, it is proposed to amend Part 17 of 7 CFR as follows:

## PART 17—SALES OF AGRICULTURAL COMMODITIES MADE AVAILABLE UNDER TITLE I OF THE AGRICULTURAL TRADE DEVELOPMENT AND ASSISTANCE ACT OF 1954, AS AMENDED

1. The authority citation for part 17 continues to read as follows:

**Authority:** 7 U.S.C. 1701–1704, 1731–1736b, 1736f, 5676; E.O. 12220, 45 FR 44245.

2. Section 17.1(b)(3) is revised to read as follows:

### § 17.1 General

* * * * *

(b) * * *

(3) A private entity must maintain a bona fide business office in the United States and have a person, principal, or agent on whom service of judicial process may be had in the United States unless the General Sales Manager determines that there are adequate assurances of repayment to CCC for the financing extended by CCC.

* * * * *

Signed at Washington D.C. on July 27, 1998.

**Lon Hatamiya,**

*Administrator, Foreign Agricultural Service and Vice President, Commodity Credit Corporation.*

[FR Doc. 98–20755 Filed 8–6–98; 8:45 am]

BILLING CODE 3410–10–P

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## DEPARTMENT OF AGRICULTURE

## Agricultural Marketing Service

## 7 CFR Part 993

**[Docket No. FV98–993–2 PR]**

## Dried Prunes Produced in California; Increased Assessment Rate

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** This rule would increase the assessment rate from $1.60 to $2.16 per ton of salable dried prunes established for the Prune Marketing Committee (Committee) under Marketing Order No. 993 for the 1998–99 and subsequent crop years. The Committee is responsible for local administration of the marketing order which regulates the handling of dried prunes grown in California. Authorization to assess dried prune handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The crop year begins August 1 and ends July 31. The assessment rate would remain in effect indefinitely unless modified, suspended, or terminated.

**DATES:** Comments must be received by September 8, 1998.

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

**FOR FURTHER INFORMATION CONTACT:** Diane Purvis, Marketing Assistant, or Richard P. Van Diest, Marketing Specialist, California Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721; telephone (209) 487–5901; Fax (209) 487–5906; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 205–6632. Small businesses may request information on compliance with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 205–6632.

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Agreement and Order No. 993, both as amended (7 CFR part 993), regulating the handling of dried prunes grown in California, hereinafter referred to as the ''order.'' The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

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

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, California dried prune handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable dried prunes beginning on August 1, 1998, and continue until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

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

This rule would increase the assessment rate established for the Committee for the 1998–99 and subsequent crop years from $1.60 per ton to $2.16 per ton of salable dried prunes.

The California dried prune marketing order provides authority for the Committee, with the approval of the Department, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are producers and handlers of California dried prunes. They are familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

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

and information submitted by the Committee or other information available to the Secretary.

The Committee met on June 25, 1998, and unanimously recommended 1998–99 expenditures of $348,840 and an assessment rate of $2.16 per ton of salable dried prunes. In comparison, last year's budgeted expenditures were $331,960 and the assessment rate was $1.60 per ton. The $0.56 per ton increase in the assessment rate is needed to generate sufficient income to meet higher 1998–99 expenses, including increases in salaries and operating expenses, and to offset an expected reduction in the size of the crop because of unusually cool and wet weather this season. The California Agricultural Statistical Service estimates a 170,000 ton crop during the 1998–99 crop year, of which 8,500 tons are not expected to be salable because of size or quality, leaving a balance of 161,500 salable tons.

The following table compares major budget expenditures (in thousands of dollars) recommended by the Committee for the 1998–99 and 1997–98 crop years:

| Budget expense categories | 1998–99 | 1997–98 |
|---|---|---|
| Salaries, Wages & Benefits | 191.5 | 176.3 |
| Research & Development | 30 | 30 |
| Office Rent | 23 | 23 |
| Travel | 21 | 21 |
| Acreage Survey | 21 | 20 |
| Reserve (Contingencies) | 9.14 | 8.06 |
| Equipment Rental | 9 | 9 |
| Data Processing | 8 | 8 |
| Stationary & Printing | 5.5 | 5 |
| Office Supplies | 5 | 5 |
| Postage & Messenger | 5 | 5 |

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected salable tons of California dried prunes. Production of dried prunes for the year is estimated at 161,500 salable tons which should provide $348,840 in assessment income. Income derived from handler assessments, along with interest income, would be adequate to cover budgeted expenses. The Committee is authorized to use excess assessment funds from the 1997–98 crop year (currently estimated at $48,255) for up to five months beyond the end of the crop year to meet 1998–99 crop year expenses. At the end of the five months, the Committee refunds or credits excess funds to handlers (§ 993.81(c)).

The proposed assessment rate would continue in effect indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate would be in effect for an indefinite period, the Committee would continue to meet prior to or during each crop year to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or the Department. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department would evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking would be undertaken as necessary. The Committee's 1998–99 budget and those for subsequent crop years would be reviewed and, as appropriate, approved by the Department.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

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

There are approximately 1,400 producers of dried prunes in the production area and approximately 19 handlers subject to regulation under the marketing order. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000.

Last year, 7 of the 19 handlers (37%) shipped over $5,000,000 of dried prunes and could be considered large handlers by the Small Business Administration. Twelve of the 19 handlers (63%) shipped under $5,000,000 of dried prunes and could be considered small handlers. An estimated 110 producers, or less than 8% of the 1,400 total producers, would be considered large growers with annual income over $500,000. The majority of handlers and producers of California dried prunes may be classified as small entities.

This rule would increase the assessment rate established for the Committee and collected from handlers for the 1998–99 and subsequent crop years from $1.60 per ton to $2.16 per ton of salable dried prunes. The Committee unanimously recommended 1998–99 expenditures of $348,840 and an assessment rate of $2.16 per ton. The proposed assessment rate of $2.16 is $0.56 higher than the 1997–98 rate. The quantity of assessable dried prunes for the 1998–99 crop year is estimated at 161,500 salable tons. Thus, the $2.16 rate should provide $348,840 in assessment income and be adequate to meet this year's expenses. Interest income also would be available to cover budgeted expenses if the 1998–99 expected income falls short.

The following table compares major budget expenditures (in thousands of dollars) recommended by the Committee for the 1998–99 and 1997–98 crop years:

| Budget expense categories | 1998–99 | 1997–98 |
|---|---|---|
| Salaries, Wages & Benefits | 191.5 | 176.3 |
| Research & Development | 30 | 30 |
| Office Rent | 23 | 23 |
| Travel | 21 | 21 |
| Acreage Survey | 21 | 20 |
| Reserve (Contingencies) | 9.14 | 8.06 |
| Equipment Rental | 9 | 9 |
| Data Processing | 8 | 8 |
| Stationary & Printing | 5.5 | 5 |
| Office Supplies | 5 | 5 |
| Postage & Messenger | 5 | 5 |

Because of unusually cool and wet weather this season, the 1998–99 dried prune crop is expected to be composed of a higher proportion of small, lower quality fruit. The California Agricultural Statistical Service estimates a 170,000

ton crop during the 1998–99 crop year, of which 8,500 tons are not expected to be salable because of size or quality, leaving a balance of 161,500 salable tons.

The Committee reviewed and unanimously recommended 1998–99 expenditures of $348,840 which included increases in administrative and office salaries and operating expenses. Prior to arriving at the 1998–99 budget, the Committee reviewed a budget that did not reflect any salary increases. Despite the expected reduced size of the crop, it recommended salary increases, thus increasing the budget. The assessment rate of $2.16 per ton of salable dried prunes was then determined by dividing the total recommended budget by the quantity of salable dried prunes, estimated at 161,500 salable tons for the 1998–99 crop year. The Committee is authorized to use excess assessment funds from the 1997–98 crop year (currently estimated at $48,255) for up to five months beyond the end of the crop year to fund 1998–99 crop year expenses. At the end of the five months, the Committee refunds or credits excess funds to handlers (§ 993.81(c)).

Recent price information indicates that the grower price for the 1998–99 season should average $800 per salable ton of dried prunes. Based on estimated shipments of 161,500 salable tons, the estimated assessment revenue for the 1998–99 crop year is expected to be less than 1 percent of the total expected grower revenue.

This action would increase the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs would be offset by the benefits derived by the operation of the marketing order. In addition, the Committee's meeting was widely publicized throughout the California dried prune industry, and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the June 25, 1998, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

This proposed rule would impose no additional reporting or recordkeeping requirements on either small or large California dried prune handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

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

A 30-day comment period is provided to allow interested persons to respond to this proposed rule. Thirty days is deemed appropriate because: (1) The 1998–99 crop year begins on August 1, 1998, and the marketing order requires that the rate of assessment for each crop year apply to all assessable dried prunes handled during such crop year; (2) the Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; and (3) handlers are aware of this action which was unanimously recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years.

### List of Subjects in 7 CFR Part 993

Marketing agreements, Plums, Prunes, Reporting and Recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 993 is proposed to be amended as follows:

## PART 993—DRIED PRUNES PRODUCED IN CALIFORNIA

1. The authority citation for 7 CFR part 993 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

2. Section 993.347 is proposed to be revised to read as follows:

### § 993.347 Assessment rate.

On and after August 1, 1998, an assessment rate of $2.16 per ton is established for California dried prunes.

Dated: August 3, 1998.

**Robert C. Keeney,**

*Deputy Administrator, Fruit and Vegetable Programs.*

[FR Doc. 98–21198 Filed 8–6–98; 8:45 am]

BILLING CODE 3410–02–P

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 97–NM–192–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; Airbus Model A320 Series Airplanes Equipped With a Bulk Cargo Door

**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 all Airbus Model A320 series airplanes equipped with a bulk cargo door. This proposal would require repetitive inspections to detect fatigue cracking of the upper frame flanges; and repair, if necessary. This proposal also would require modification of the upper frame flanges of the bulk cargo door, which constitutes terminating action for the repetitive inspections. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent fatigue cracking of the upper frame flanges, which could result in reduced structural integrity of the airplane.

**DATES:** Comments must be received by September 8, 1998.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 97–NM–192–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 Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, 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–192–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–192–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

**Discussion**

The Direction Ǵeńerale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified the FAA that an unsafe condition may exist on all Airbus Model A320 series airplanes equipped with a bulk cargo door. The DGAC advises that, during full-scale fatigue testing on a Model A320 test article, fatigue cracking occurred at 89,000 simulated flights between frames 60 and 62 on the upper frame flanges. Such fatigue cracking, if not corrected, could result in reduced structural integrity of the airplane.

**Explanation of Relevant Service Information**

Airbus has issued Service Bulletin A320–53–1022, Revision 1, dated June 18, 1992, which describes procedures for repetitive high frequency eddy current inspections to detect fatigue cracking of the upper frame flanges.

In addition, Airbus has issued Service Bulletin A320–53–1021, Revision 1, dated April 13, 1992, which describes procedures for a one-time high frequency eddy current inspection to detect fatigue cracking of the upper frame flanges; repair, if necessary; and modification of the upper frame flanges. The repair entails stop drilling the cracked hole, and installing a new angle, shim, and plate on frame 60 and/or 62. The modification involves reworking and flap peening the upper frame flanges of frames 60 and 62.

Accomplishment of the repair or the modification would eliminate the need for the repetitive inspections described in Airbus Service Bulletin A320–53–1022, Revision 1.

Accomplishment of the actions specified in the service bulletins is intended to adequately address the identified unsafe condition. The DGAC classified Airbus Service Bulletin A320–53–1022, Revision 1, as mandatory; approved Airbus Service Bulletin A320–53–1021, Revision 1; and issued French airworthiness directive 96–238–091(B), dated October 23, 1996, 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 as discussed below.

**Differences Between Proposed Rule and Foreign AD**

The proposed AD would differ from the parallel French airworthiness directive in that it would mandate the accomplishment of the terminating action for the repetitive inspections. The French airworthiness directive provides for that action as optional.

Mandating the terminating action is based on the FAA's determination that long-term continued operational safety will be better assured by modifications or design changes to remove the source of the problem, rather than by repetitive inspections. Long-term inspections may not be providing the degree of safety assurance necessary for the transport airplane fleet. This, coupled with a better understanding of the human factors associated with numerous continual inspections, has led the FAA to consider placing less emphasis on inspections and more emphasis on design improvements. The proposed modification requirement is in consonance with these conditions.

**Cost Impact**

The FAA estimates that 8 airplanes of U.S. registry would be affected by this proposed AD.

It would take approximately 1 work hour per airplane to accomplish the proposed inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the inspection proposed by this AD on U.S. operators is estimated to be $480, or $60 per airplane, per inspection cycle.

It would take approximately 4 work hours per airplane to accomplish the proposed modification, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the modification proposed by this AD on U.S. operators is estimated to be $1,920, or $240 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:

**Airbus Industrie:** Docket 97–NM–192–AD.

*Applicability:* Model A320 series airplanes, equipped with a bulk cargo door (Airbus Modification 20029), 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 fatigue cracking of the upper frame flanges, which could result in reduced structural integrity of the airplane, accomplish the following:

(a) Prior to the accumulation of 20,000 total flight cycles, or within 1,200 flight cycles after the effective date of this AD, whichever occurs later: Perform a high frequency eddy current inspection to detect fatigue cracking of the upper frame flanges, in accordance with Airbus Service Bulletin A320–53–1022, Revision 1, dated June 18, 1992.

(1) If no cracking is detected, accomplish either paragraph (a)(1)(i) or (a)(1)(ii) of this AD.

(i) Repeat the eddy current inspection thereafter at intervals not to exceed 1,200 flight cycles until accomplishment of the requirements of paragraph (b) of this AD. Or

(ii) Prior to further flight, modify the upper frame flanges, in accordance with Airbus Service Bulletin A320–53–1021, Revision 1, dated April 13, 1992. This modification constitutes terminating action for the requirements of this AD.

(2) If any cracking is detected, prior to further flight, repair in accordance with Airbus Service Bulletin A320–53–1021, Revision 1, dated April 13, 1992. Accomplishment of the repair constitutes terminating action for the requirements of this AD.

(b) Prior to the accumulation of 26,000 total flight cycles, or within 6,000 flight cycles after the effective date of this AD, whichever occurs later: Perform a high frequency eddy current inspection to detect fatigue cracking of the upper frame flanges, in accordance with Airbus Service Bulletin A320–53–1021, Revision 1, dated April 13, 1992.

(1) If no cracking is detected, prior to further flight, modify the upper frame flanges, in accordance with the service bulletin. Accomplishment of this modification constitutes terminating action for the requirements of this AD.

(2) If any cracking is detected, prior to further flight, repair in accordance with the service bulletin. Accomplishment of the repair constitutes terminating action for the requirements of this AD.

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

**Note 2:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

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

**Note 3:** The subject of this AD is addressed in French airworthiness directive 96–238–091(B), dated October 23, 1996.

Issued in Renton, Washington, on July 31, 1998.

**Darrell M. Pederson,**

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

[FR Doc. 98–21104 Filed 8–6–98; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 98–NM–138–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; Short Brothers Model SD3–60 SHERPA 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 all Short Brothers Model SD3–60 SHERPA series airplanes. This proposal would require an initial cleaning and visual inspection of the distance piece and adjacent side plates of the fuselage wing strut pick-up of the left- and right-stub wings to detect corrosion; rework or replacement of damaged components; and, for certain conditions, follow-on repetitive cleaning and visual inspections of reworked components. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to detect and correct corrosion of the distance piece and adjacent side plates, which could result in reduced strength of the wing strut attachment to the stub wing on the fuselage, and consequent reduced structural integrity of the main wing.

**DATES:** Comments must be received by September 8, 1998.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–138–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 Short Brothers, Airworthiness & Engineering Quality, P.O. Box 241, Airport Road, Belfast BT3 9DZ, Northern Ireland. 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 98–NM–138–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. 98–NM–138–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

## Discussion

The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, notified the FAA that an unsafe condition may exist on all Short Brothers Model SD3–60 SHERPA series airplanes. The CAA advises that corrosion has been detected on the horizontal leg of the distance piece and adjacent faces of the side plates of the wing strut pick-up on the left- and right-stub wing. This corrosion occurs from debris being thrown into pockets in the distance piece, which is adjacent to the main landing gear wheels. Such corrosion of the distance piece and adjacent side plates, if not corrected, could result in reduced strength of the wing strut attachment to the stub wing on the fuselage, and consequent reduced structural integrity of the main wing.

## Explanation of Relevant Service Information

Shorts has issued Service Bulletin SD3–60 SHERPA–53–2, dated November 4, 1997, which describes procedures for an initial cleaning and visual inspection of the distance piece and adjacent side plates of the fuselage wing strut pick-up of the left- and right-stub wings to detect corrosion; rework or replacement of damaged components, if necessary; and, for certain conditions, follow-on repetitive cleaning and visual inspections of reworked components. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition. The CAA classified this service bulletin as mandatory and issued British airworthiness directive 004–11–97 in order to assure the continued airworthiness of these airplanes in the United Kingdom.

## FAA's Conclusions

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

## Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously, except as discussed below. The proposed AD also would require that operators report inspection findings to the manufacturer.

## Differences between Proposed Rule and Service Bulletin

Operators should note that, although the service bulletin specifies that the manufacturer may be contacted for disposition of corrosion that exceeds certain limits, this proposal would require the repair of those conditions to be accomplished in accordance with a method approved by either the FAA or the CAA (or its delegated agent). In light of the type of repair that would be required to address the identified unsafe condition, and in consonance with existing bilateral airworthiness agreements, the FAA has determined that, for this proposed AD, a repair approved by either the FAA or the CAA would be acceptable for compliance with this proposed AD.

## Cost Impact

The FAA estimates that 28 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 5 work hours per airplane to accomplish the proposed inspection, 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 $8,400, or $300 per airplane, per inspection cycle.

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:

**Short Brothers PLC:** Docket 98–NM–138–AD.

*Applicability:* All Model SD3–60 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 (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

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

To detect and correct corrosion of the distance piece and adjacent side plates of the fuselage wing strut pick-up of the left-and right-stub wings, which could result in reduced strength of the wing strut attachment to the stub wing on the fuselage, and consequent reduced structural integrity of the main wing, accomplish the following:

(a) Within 90 days after the effective date of this AD, clean the pockets in the horizontal and vertical legs of the distance piece and adjacent faces of the side plates at the wing strut pick-up area on the stub wing, and perform a visual inspection to detect corrosion; in accordance with Shorts Service Bulletin SD3–60 SHERPA–53–2, dated November 4, 1997.

(b) If no corrosion is detected during the inspection required by paragraph (a) of this AD, prior to further flight, apply additional corrosion protection treatment in accordance with Shorts Service Bulletin SD3–60 SHERPA–53–2, dated November 4, 1997.

(c) If any corrosion is detected, prior to further flight, after cleaning and removing the corrosion from the distance piece and side plates in accordance with Shorts Service Bulletin SD3–60 SHERPA–53–2, dated November 4, 1997, accomplish paragraph (c)(1) or (c)(2) of this AD, as applicable.

(1) If the depth of corrosion is within the limits specified in the service bulletin, apply additional corrosion protection treatment in accordance with the service bulletin.

(2) If the depth of corrosion is outside the limits specified in the service bulletin, accomplish either paragraph (c)(2)(i) or (c)(2)(ii) of this AD. Thereafter, repeat the detailed visual inspection required by paragraph (a) of this AD at intervals not to exceed 600 hours time-in-service or 90 days, whichever occurs first.

(i) Rework the damaged components in accordance with a method approved by either the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate; or the Civil Aviation Authority of the United Kingdom (or its delegated agent). Thereafter, repeat the detailed visual inspection required by paragraph (a) of this AD at intervals not to exceed 600 hours time-in-service or 90 days, whichever occurs first.

(ii) Replace the damaged components with new components in accordance with Shorts SD3–60 Sherpa Maintenance Programme Manual, Section 5–26–57, page 9, dated July 17, 1995.

(d) Within 10 days after accomplishing the initial cleaning and inspection required by paragraph (a) of this AD, submit a report of the inspection results (both positive and negative findings) to Short Brothers, PLC. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

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

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

**Note 3:** The subject of this AD is addressed in British airworthiness directive 004–11–97.

Issued in Renton, Washington, on July 31, 1998.

**Darrell M. Pederson,**

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

[FR Doc. 98–21103 Filed 8–6–98; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 71

**[Airspace Docket No. 98–ASO–9]**

## Proposed Establishment of Class E Airspace; Villa Rica, GA

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This notice proposes to establish Class E airspace at Villa Rica, GA. A Global Positioning System (GPS) Runway (RWY) 10 Standard Instrument Approach Procedure (SIAP) has been developed for Stockmar Airport. As a result, controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to accommodate the SIAP and for Instrument Flight Rules (IFR) operations at Stockmar Airport. The operating status of the airport will change from Visual Flight Rules (VFR) to include IFR operations concurrent with the publication of the SIAP.

**DATES:** Comments must be received on or before September 8, 1998.

**ADDRESSES:** Send comments on the proposal in triplicate to: Federal Aviation Administration, Docket No. 98–ASO–9, Manager, Airspace Branch, ASO–520, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, telephone (404) 305–5586.

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

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide for factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address

listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 98–ASO–9.'' The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. All comments submitted will be available for examination in the Office of the Regional Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

### Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace Branch, ASO–520, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

### The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish Class E airspace at Villa Rica, GA. A GPS RWY 10 SIAP has been developed for Stockmar Airport. As a result, controlled airspace extending upward from 700 feet AGL is needed to accommodate the SIAP and for IFR operations at Stockmar Airport. The operating status of the airport will change from VFR to include IFR operations concurrent with the publication of the SIAP. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface are published in Paragraph 6005 of FAA Order 7400.9E dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

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

### List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

### The Proposed Amendment

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

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

1. The authority citation for Part 71 continues to read as follows:

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

### § 71.1 [Amended]

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

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

* * * * *

**ASO GA E5 Villa Rica, GA [New]**

Stockmar Airport, GA
(Lat. 33°45′23″N, long 84°53′05″W)

That airspace extending upward from 700 feet or more above the surface of the earth within a 6.3-mile radius of Stockmar Airport.

* * * * *

Issued in College Park, Georgia, on June 10, 1998.

**Nancy B. Shelton,**

*Acting Manager, Air Traffic Division, Southern Region.*

[FR Doc. 98–17857 Filed 8–6–98; 8:45 am]

BILLING CODE 4910–13–M

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 71

**[Airspace Docket No. 98–AEA–15]**

## Proposed Amendment to Class E Airspace, Fort Drum, NY

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This notice proposes to amend the Class E airspace area at Fort Drum, NY. The development of Standard Instrument Approach Procedure (SIAP) based on the Global Positioning System (GPS) and Instrument Landing System (ILS) at Wheeler Sack Army Air Field (AAF) has made this proposal necessary. Additional controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to accommodate these SIAPs and for Instrument Flight Rules (IFR) operations at the airport.

**DATES:** Comments must be received on or before September 8, 1998.

**ADDRESSES:** Send comments on the proposal in triplicate to: Manager, Airspace Branch, AEA–520, Docket No. 98–AEA–15, F.A.A. Eastern Region, Federal Building # 111, John F. Kennedy Int'l Airport, Jamaica, NY 11430.

The official docket may be examined in the Office of the Regional Counsel, AEA–7, F.A.A. Eastern Region, Federal Building # 111, John F. Kennedy International Airport, Jamaica, New York 11430. An informal docket may also be examined during normal business hours in the Airspace Branch, AEA–520, F.A.A. Eastern Region, Federal Building # 111, John F. Kennedy International Airport, Jamaica, NY 11430.

**FOR FURTHER INFORMATION CONTACT:** Mr. Francis T. Jordan, Jr., Airspace Specialist, Airspace Branch, AEA–520 F.A.A. Eastern Region, Federal Building # 111, John F. Kennedy International Airport, Jamaica, New York 11430; telephone (718) 553–4521.

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments

are specifically invited on the overall regulatory, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 98–AEA–15.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with the FAA personnel concerned with this rulemaking will be filed in the docket.

### Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Office of the Regional Counsel, AEA–7, F.A.A. Eastern Region, Federal Building # 111, John F. Kennedy International Airport, Jamaica, NY 11430. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

### The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to amend the Class E airspace area at Fort Drum, NY. A GPS RWY 03 SIAP, GPS RWY 21 SIAP, ILS RWY 03 SIAP, and ILS RWY 21 SIAP has been developed for Wheeler Sack AAF. Additional controlled airspace extending upward from 700 feet AGL is needed to accommodate these SIAPs and for IFR operations at the airport. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface are published in Paragraph 6005 of FAA Order 7400.9E, dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

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

### List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

### The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR Part 71 as follows:

## PART 71—[AMENDED]

1. The authority citation for Part 71 continues to read as follows:

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

### § 71.1 [Amended]

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

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

* * * * *

**AEA NY E5 Fort Drum, NY [Revised]**

Wheeler Sack AAF, Fort Drum, NY
(Lat. 44°03′31″N., long. 75°43′12″W.)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Wheeler Sack AAF extending clockwise from a 330° bearing to a 135° bearing from the airport and within a 12-mile radius of Wheeler Sack AAF extending from a 135° bearing to a 330° bearing from the airport, excluding that portion that coincides with the Watertown, NY Class E airspace area, and R–5201 when in use.

* * * * *

Issued in Jamaica, New York, on July 29, 1998.

**Franklin D. Hatfield,**

*Manager, Air Traffic Division, Eastern Region.*

[FR Doc. 98–21184 Filed 8–6–98; 8:45 am]

BILLING CODE 4910–13–M

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 71

**[Airspace Docket No. 98–AEA–20]**

## Proposed Establishment of Class E Airspace; Ellenville, NY

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This notice proposes to establish Class E airspace at Ellenville, NY. The development of a new Standard Instrument Approach Procedure (SIAP) based on the Global Positioning System (GPS) at Joseph Y. Resnick Airport, Ellenville, NY, has made this proposal necessary. Additional controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to accommodate the SIAP and for Instrument Flight Rules (IFR) operations to the airport. The area would be depicted on aeronautical charts for pilot reference.

**DATES:** Comments must be received on or before September 8, 1998.

**ADDRESSES:** Send comments on the proposal in triplicate to: Manager, Airspace Branch, AEA–520, Docket No. 98–AEA–20, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy Int'l Airport, Jamaica, NY 11430.

The official docket may be examined in the Office of the Regional Counsel, AEA–7, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430.

An informal docket may also be examined during normal business hours in the Airspace Branch, AEA–520, F.A.A. Eastern Region, Federal Building #111 John F. Kennedy International Airport, Jamaica, NY 11430.

**FOR FURTHER INFORMATION CONTACT:** Mr. Francis T. Jordan, Jr., Airspace Specialist, Airspace Branch, AEA–520, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430; telephone: (718) 553–4521.

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 98–AEA–20.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with the FAA personnel concerned with this rulemaking will be filed in the docket.

**Availability of NPRMs**

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Office of the Regional Counsel, AEA–7, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, NY 11430. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

**The Proposal**

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish Class E airspace area at Ellenville, NY. A GPS RWY 22 SIAP has been developed for Joseph Y. Resnick Airport. Additional controlled airspace extending upward from 700 feet AGL is needed to accommodate the SIAP and for IFR operations at the airport. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface are published in Paragraph 6005 of FAA Order 7400.9E, dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

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

**List of Subjects in 14 CFR Part 71**

Airspace, Incorporation by reference, navigation (air).

**The Proposed Amendment**

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR Part 71 as follows:

## PART 71—[AMENDED]

1. The authority citation for Part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854; 24 FR 9565, 3 CFR, 1059–1963 Comp., p. 389.

**§ 71.1 [Amended]**

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

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

* * * * *

**AEA NY E5 Ellenville, NY [NEW]**

Joseph Y. Resnick Airport, NY
(Lat 41°43′44″N., long. 74°22′37″W.)

That airspace extending upward from 700 feet above the surface within a 10.5–mile radius of Joseph Y. Resnick Airport, excluding the portion that coincides with the Wurtsboro, NY, Monticello, NY, and Newburgh, NY Class E airspace areas

* * * * *

Issued in Jamaica, New York, on July 29, 1998.

**Franklin D. Hatfield,**

*Manager, Air Traffic Division, Eastern Region.*

[FR Doc. 98–21183 Filed 8–6–98; 8:45 am]

BILLING CODE 4910–13–M

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 71

**[Airspace Docket No. 98–AEA–16]**

## Proposed Amendment to Class E Airspace; Berkeley Springs, WV

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

**ACTION:** Notice of proposes rulemaking.

**SUMMARY:** This notice proposes to amend the Class E airspace area at Berkeley Springs, WV. The development of two new Standard Instrument Approach Procedures (SIAP) based on the Global Positioning System (GPS) at Potomac Airpark has made this proposal necessary. Additional controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to accommodate the SIAPs and for Instrument Flight Rules (IFR) operations at the airport.

**DATES:** Comments must be received on or before September 8, 1998.

**ADDRESSES:** Send comments on the proposal in triplicate to: Manager, Airspace Branch, AEA–520, Docket No. 98–AEA–16, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy Int'l Airport, Jamaica, NY 11430.

The official docket may be examined in the Office of the Regional Counsel, AEA–7, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430.

An informal docket may also be examined during normal business hours in the Airspace Branch, AEA–520, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, NY 11430.

**FOR FURTHER INFORMATION CONTACT:** Mr. Francis T. Jordan, Jr., Airspace Specialist, Airspace Branch, AEA–520 F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430; telephone: (718) 553–4521.

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 98–AEA–16.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with the FAA personnel concerned with this rulemaking will be filed in the docket.

**Availability of NPRMs**

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Office of the Regional Counsel, AEA–7, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, NY 11430. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

**The Proposal**

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to amend the Class E airspace area at Berkeley Springs, WV. A GPS RWY 11 SIAP and a GPS RWY 29 SIAP has been developed for Potomac Airpark. Additional controlled airspace extending upward from 700 feet AGL is needed to accommodate the SIAPs and for IFR operations at the airport. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface are published in Paragraph 6005 of FAA Order 7400.9E, dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

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

**List of Subjects in 14 CFR Part 71**

Airspace, Incorporation by reference, Navigation (air).

**The Proposed Amendment**

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR Part 71 as follows:

## PART 71—[AMENDED]

1. The authority citation for Part 71 continues to read as follows:

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

**§ 71.1 [Amended]**

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

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

* * * * *

**AEA WV E5 Berkeley Springs, WV [Revised]**

Potomac Airpark, Berkeley Springs, WV
(Lat. 39°41′33″N., long. 78°09′58″W.)

That airspace extending upward from 700 feet above the surface within an 11-mile radius of Potomac Airpark, excluding that portion that coincides with the Hagerstown, MD Class E airspace area.

* * * * *

Issued in Jamaica, New York, on July 29, 1998.

**Franklin D. Hatfield,**

*Manager, Air Traffic Division, Eastern Region.*

[FR Doc. 98–21182 Filed 8–6–98; 8:45 am]

BILLING CODE 4910–13–M

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 71

**[Airspace Docket No. 98–AEA–17]**

## Proposed Amendment to Class E Airspace; Baltimore, MD

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This notice proposes to amend the Class E airspace area at Baltimore, MD. The amendment of a Standard Instrument Approach Procedure (SIAP) based on the Global Positioning System (GPS) at Martin State Airport has made this proposal necessary. Additional controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to accommodate the SIAP and for Instrument Flight Rules (IFR) operations at the airport.

**DATES:** Comments must be received on or before September 8, 1998.

**ADDRESSES:** Send comments on the proposal in triplicate to: Manager, Airspace Branch, AEA–520, Docket No. 98–AEA–17, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy Int'l Airport, Jamaica, NY 11430.

The official docket may be examined in the Office of the Regional Counsel, AEA–7, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, NY 11430.

An informal docket may also be examined during normal business hours in the Airspace Branch, AEA–520, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, NY 11430.

**FOR FURTHER INFORMATION CONTACT:** Mr. Francis T. Jordan, Jr., Airspace Specialist, Airspace Branch, AEA–520, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, NY 11430; telephone (718) 553–4521.

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 98–AEA–17.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with the FAA personnel concerned with this rulemaking will be filed in the docket.

**Availability of NPRMs**

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Office of the Regional Counsel, AEA–7, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, NY 11430. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

**The Proposal**

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to amend the Class E airspace area at Baltimore, MD. The NDB or GPS RWY 15 SIAP has been amended for Martin State Airport. Additional controlled airspace extending upward from 700 feet AGL is needed to accommodate the SIAP and for IFR operations at the airport. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface are published in Paragraph 6005 of FAA Order 7400.9E, dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

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

**List of Subjects in 14 CFR Part 71**

Airspace, Incorporation by reference, Navigation (air).

**The Proposed Amendment**

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR Part 71 as follows:

## PART 71—[AMENDED]

1. The authority citation for Part 71 continues to read as follows:

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

**§ 71.1 [Amended]**

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

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

* * * * *

**AEA MD E5 Baltimore, MD [Revised]**

Baltimore Washington International Airport, MD
(Lat. 39°10′31″N., long. 76°40′09″W.)
Martin State Airport, MD
(Lat. 39°19′32″N., long. 76°24′50″W.)
Martin NDB
(Lat. 39°17′59″N., long. 76°22′48″W.)

That airspace extending upward from 700 feet above the surface within a 12-mile radius of Baltimore Washington International Airport extending clockwise from a 005° bearing to a 245° bearing from the airport and within a 16.5-mile radius of Baltimore Washington International Airport extending from a 245° bearing to a 005° bearing from the airport and within a 7.5-mile radius of Martin State Airport extending from a 015° bearing to a 290° bearing from the airport and within a 16.5-mile radius of Martin State Airport extending from a 290° bearing to a 350° bearing from the airport and within a 10-mile radius of Martin State Airport extending from a 350° bearing to a 015° bearing from the airport and within 3 miles each side of a 137° bearing from the Martin NDB extending from the 7.5-mile radius to 9.6 miles southeast of the NDB, excluding the airspace that coincides with the College Park, MD, and Mitchellville, MD, Class E airspace areas, and R–4001A and R–4001B when they are in effect.

* * * * *

Issued in Jamaica, New York, on July 29, 1998.

**Franklin D. Hatfield,**

*Manager, Air Traffic Division, Eastern Region.*

[FR Doc. 98–21181 Filed 8–6–98; 8:45 am]

BILLING CODE 4910–13–M

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 71

**[Airspace Docket No. 98–ASO–9]**

## Proposed Establishment of Class E Airspace; Villa Rica, GA

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

**ACTION:** Proposed rule; withdrawal.

**SUMMARY:** This action withdraws the Notice of Proposed Rulemaking (NPRM) which proposed to establish Class E airspace at Villa Rica, GA. The NPRM is being withdrawn because the NPRM published on June 19, 1998 (63 FR 33591) contained errors in the regulatory text. A new NPRM is published elsewhere in this same **Federal Register**.

**DATES:** The proposed rule at 63 FR 33591 is withdrawn August 7, 1998.

**FOR FURTHER INFORMATION CONTACT:** Nancy B. Shelton, Manager, Airspace Branch, ASO–520, Federal Aviation Administration, Docket No. 98–ASO–9, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 305–5586.

**SUPPLEMENTARY INFORMATION:**

**The Proposed Rule**

On June 19, 1998, a Notice of Proposed Rulemaking was published in the **Federal Register** to establish Class E

airspace at Villa Rica, GA (63 FR 33591). A Global Positioning System (GPS) Runway (RWY) 10 Standard Instrument Approach Procedure (SIAP) has been developed for Stockmar Airport. As a result, controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to accommodate the SIAP and for Instrument Flight Rules (IFR) operations at Stockmar Airport. The operating status of the airport will change from Visual Flight Rules (VFR) to include IFR operations concurrent with the publication of the SIAP.

### Conclusion

The NPRM published on June 19, 1998, (63 FR 33591), contained errors in the regulatory text. A new NPRM is published elsewhere in this same **Federal Register**.

### List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

### Withdrawal of Proposed Rule

Accordingly, pursuant to the authority delegated to me, Airspace Docket No. 98–ASO–9, as published in the **Federal Register** on June 19, 1998 (63 FR 33591), is hereby withdrawn.

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

Issued in College Park, Georgia, on July 23, 1998.

**Richard E. Biscomb,**

*Acting Manager, Air Traffic Division, Southern Region.*

[FR Doc. 98–21079 Filed 8–6–98; 8:45 am]

BILLING CODE 4910–13–M

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## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

## 18 CFR Part 37

**[Docket No. RM98–3–000]**

## Open Access Same-Time Information System

July 29, 1998.

**AGENCY:** Federal Energy Regulatory Commission.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Federal Energy Regulatory Commission (Commission) proposes to: amend its regulations to extend the retention period and availability of information on curtailments and interruptions and require this information to include other uses of the congested path at the time of such incidents; amend its regulations to clarify that OASIS nodes must have the capability to allow OASIS users to make file transfers and automated computer-to-computer file transfers and queries; amend its regulations to clarify that Responsible Parties are required to provide access to their OASIS sites for OASIS users making automated queries or extensive requests for data; and add a provision to its regulations that would allow Responsible Parties, under certain circumstances, to limit a user's access to the node if that user's grossly inefficient method of accessing an OASIS node or obtaining information from the node degrades the performance of the node.

**DATES:** Comments on the notice of proposed rulemaking are due on or before September 21, 1998.

**ADDRESSES:** File comments on the notice of proposed rulemaking with the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. Comments should reference Docket No. RM98–3–000.

**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

**SUPPLEMENTARY INFORMATION:** In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in the Public Reference Room at 888 First Street, N.E., Room 2A, Washington, D.C. 20426.

The Commission Issuance Posting System (CIPS) provides access to the texts of formal documents issued by the Commission. CIPS can be accessed via Internet through FERC's Homepage (http://www.ferc.fed.us) using the CIPS Link or the Energy Information Online icon. The full text of this document will be available on CIPS in ASCII and WordPerfect 6.1 format. CIPS is also available through the Commission's electronic bulletin board service at no charge to the user and 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, 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. User assistance is available at 202–208–2474 or by E-mail to CipsMaster@FERC.fed.us.

This document is also available through the Commission's Records and Information Management System (RIMS), an electronic storage and retrieval system of documents submitted to and issued by the Commission after November 16, 1981. Documents from November 1995 to the present can be viewed and printed. RIMS is available in the Public Reference Room or remotely via Internet through FERC's Homepage using the RIMS link or the Energy Information Online icon. User assistance is available at 202–208–2222, or by E-mail to RimsMaster@FERC.fed.us.

Finally, 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.

### Notice of Proposed Rulemaking

### I. Introduction

The Federal Energy Regulatory Commission (Commission or FERC) is proposing to issue a notice of proposed rulemaking (NOPR) that proposes to: (1) amend 18 CFR 37.6(e)(3)(ii) to extend the retention period and availability of information on curtailments and interruptions and require this information to include other uses of the congested path at the time of such incidents; (2) amend 18 CFR 37.6 to clarify that OASIS nodes must have the capability to allow OASIS users to make file transfers and automated computer-to-computer file transfers and queries; (3) amend 18 CFR 37.5 to clarify that Responsible Parties are required to provide access to their OASIS sites for OASIS users making automated queries or extensive requests for data; and (4) add 18 CFR 37.5(d) to allow Responsible Parties, under certain circumstances, to limit a user's access to the node if that user's grossly inefficient method of accessing an OASIS node or obtaining information from the node degrades the performance of the node.

Item 1 is designed to help the Commission better monitor whether curtailments and interruptions involve

instances of undue discrimination. Items 2 through 4 go together. In the discussion below, we clarify that OASIS nodes must have the capability to allow OASIS users to make file transfers and automated computer-to-computer file transfers and queries, and that legitimate users may not have their access to the node restricted or cut off based on their making automated queries or extensive requests for data. We also clarify that extensive requests for data by legitimate users does not constitute an ''excessive use of resources'' eligible for unilateral disconnection by a Responsible Party under section 5.1(j) of the S&CP Document. We nevertheless are also proposing to revise 18 CFR 37.5(d) to allow Responsible Parties, under certain circumstances, to limit a user's access to the node if that user's grossly inefficient method of accessing an OASIS node or obtaining information from the node degrades the performance of the node. Commission approval is needed for disconnection under these circumstances.

## II. Discussion

### *A. Access To, and Retention Of, Supporting Information on Curtailments and Interruptions*

The Commission's regulations at 18 CFR 37.6(e)(3)(ii) require that Transmission Providers make available supporting information about curtailments and interruptions, for up to 60 days after the curtailment or interruption, upon request by the affected customers. Since Order No. 889 [1] became effective, issues concerning curtailments and interruptions have been the subject of a number of informal complaints to the FERC Enforcement Hotline. The Commission is concerned that the current regulations do not allow the Commission's staff and the public access to the supporting information required under 18 CFR 37.6(e)(3)(ii) and that the information is not retained long enough. Lack of access to the supporting information limits significantly the Commission's ability to audit the circumstances under which a curtailment or interruption occurs, as well as the Commission's ability to identify compliance problems and resolve complaints. Therefore, we propose to make changes to our regulations to require that Transmission Providers retain supporting information about curtailments and interruptions for three years and make this information available on request, not only to affected customers, but also to the Commission's staff and the public.

Additionally, our review of this regulation persuades us to propose one additional change. In order to assess properly whether a curtailment or interruption has been imposed on an unduly discriminatory basis, it would be helpful to know whether the curtailment or interruption was imposed on other users of the congested path. We, therefore, are proposing that the information to be made available upon request under 18 CFR 37.6(e)(3)(ii) should include information on any other uses of the congested path at the time of the curtailment or interruption. This information would be very informative, and should not be burdensome to assemble, because the person(s) posting the notice of curtailment or interruption under 18 CFR 37.6(e)(3)(i) should already have this information at hand.

The Commission will provide interested persons with an opportunity to file comments on these proposed changes within 45 days of the date of publication of this NOPR in the **Federal Register**. Parties filing comments should address, among other issues: (1) whether the information will increase market participants' knowledge of system operations and thereby improve the functioning of the electricity markets; (2) whether the additional information will help market participants detect discrimination or other abusive transmission practices and, when necessary, enable them to file well-specified, well-documented complaints with the Commission (which will help the Commission process complaints more efficiently); and (3) whether the need for this information outweighs its commercial sensitivity.

### *B. File Transfers, Automated Queries, and Extensive Requests for Data*

1. Overview

The FERC Enforcement Hotline also received calls showing that some misunderstandings have arisen about the use of file transfers and automated queries. To correct these misunderstandings, we propose to revise 18 CFR 37.5 and 37.6 to clarify that OASIS nodes must have the capability to allow OASIS users to make file transfers and automated computer-to-computer file transfers and queries, and that Responsible Parties are required to provide OASIS users with access for automated querying of the system.[2] This is true even when a large volume of requests are made. We also propose to add a provision, at 18 CFR 37.5(d), that would permit Responsible Parties, under certain circumstances, to restrict access to users whose grossly inefficient use of the system is degrading the performance of the node and who are unwilling to use less burdensome methods that would give them the same information just as quickly.

2. Background

In Order No. 888, the Commission stated that:

> in order to remedy undue discrimination in the provision of transmission services it is necessary to have non-discriminatory access to transmission information * * * [3]

Likewise, in Order No. 889, we stated that,

> under 18 CFR 37.5, the OASIS must give access to relevant standardized information pertaining to the status of the transmission system as well as to the types and prices of services.[4]

Consistent with these findings, the Commission's regulations at 18 CFR 37.5(b) require each Responsible Party to:

> provide access to an OASIS providing standardized information . . . pertaining to the transmission system for which it is responsible.[5]

In the period since Order Nos. 888 and 889 have become effective, some OASIS providers have been limiting the access of certain parties using automated queries.

3. Discussion

Access to OASIS data by automated query is an integral part of the transmission data sharing we envisioned and required in Order Nos. 888 and 889. As we observed in Order

[1] Open Access Same-Time Information System and Standards of Conduct, Order No. 889, FERC Stats. & Regs. ¶ 31,035 (1996); *order on reh'g*, Order No. 889–A, FERC Stats. & Regs. ¶ 31,049 (1997); and *order on reh'g*, Order No. 889–B, 81 FERC ¶ 61,253 (1997).

[2] For the purposes of this discussion, by ''Responsible Party'', we also intend to include a ''Transmission Provider'' that operates its own OASIS node. We note that in Order No. 889 we stated that a Transmission Provider ultimately is responsible for the acts or omissions conducting on its behalf by a Responsible Party. *See* FERC Stats. & Regs. ¶ 31,035 at 31,603–04.

[3] Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities, Order No. 888, FERC Stats. & Regs. ¶ 31,036 at 31,722 (1996); *order on reh'g*, Order No. 888-A, FERC Stats. & Regs. ¶ 31,048 (1997); *order on reh'g*, Order No. 888-B, 81 FERC ¶ 61,248 (1997); and *order on reh'g*, Order No. 888-C, 82 FERC ¶ 61,046 (1998).

[4] Order No. 889, FERC Stats. & Regs. ¶ 31,035 at 31,603.

[5] Section 37.5(b)(2) of the OASIS regulations, 18 CFR 37.5(b)(2) (1998), also requires each Responsible Party to operate its OASIS node in compliance with the standardized procedures specified in the OASIS Standards and Communications Protocols document (referred to herein as the ''S&CP Document'').

No. 889-A, uploading and downloading are computer-to-computer transactions.[6] In addition, computer-to-computer queries are an integral part of OASIS as specified in the S&CP Document.[7] However, to avoid any possible contrary interpretations, we propose to add language to 18 CFR 37.5 and 18 CFR 37.6 making this point explicitly.[8] These proposals are consistent with the current language in section 4.3.1 of the S&CP Document (which specifies the information requirements and templates for uploading the information to, and downloading it from, OASIS nodes) and in section 37.5(b) of the Commission's regulations (which contemplates OASIS access by computer-to-computer queries). The proposals are intended to make absolutely clear that each Responsible Party must provide OASIS users with non-discriminatory access without curfews, restrictions, or limitations of any kind, whether access is sought by automated or graphical user interface means.

This also is consistent with the current language in section 5.1(j) of the S&CP Document, which allows a Responsible Party to disconnect or restrict users in only very limited circumstances. Section 5.1(j) of the S&CP Document reads as follows:

> Disconnection: [Transmission System Information Providers] shall be allowed to disconnect any User who is degrading the performance of the OASIS Node through the excessive use of resources, beyond what is permitted in the Service Level Agreement.

This provision authorizes the disconnection of a user only when the user is degrading the performance of the OASIS node, through excessive use beyond what is allowed in the Service Level Agreement (SLA). Thus, under section 5.1(j), disconnection is only authorized when: (1) the use exceeds what is allowed in the SLA; and (2) the excessive use is degrading the performance of the OASIS node.[9] Thus, a particular user's heavy use of an OASIS node, even if it would require the node to be upgraded, would not, by itself, be a basis for disconnection.

The basic (default) SLA applicable to all OASIS users allows large volume, computer-to-computer usage of the OASIS. Thus, Responsible Parties may not use section 5.1(j) or, as explained below, section 3.2 of the S&CP Document to deny access to large volume users of the OASIS.

Section 3.2 of the S&CP Document authorizes Responsible Parties to enter into SLAs.[10] Section 3.2 reads as follows:

> *Service Level Agreements:* It is recognized that Users will have different requirements for frequency of access, performance, etc., based on their unique business needs. To accommodate these differing requirements, [Transmission System Information Providers] shall be required to establish [an SLA] with each User which specifies the terms and conditions for access to the information posted by the Providers. The default [SLA] shall be Internet access with the OASIS Node meeting all minimum performance requirements.

Section 3.2 of the S&CP Document directs Responsible Parties to establish an SLA with each user, specifying the terms and conditions for access to the information posted on the OASIS. The service to be provided under these SLAs is to meet all minimum performance requirements (*i.e.*, the requirements of Order No. 889, the Commission's regulations, and the S&CP Document).

Although not explicitly stated in section 3.2 of the S&CP Document, our proposal clarifies that when a user registers on an OASIS node to receive basic OASIS service, this registration, by default, constitutes a basic SLA (including computer-to-computer access as discussed above). A negotiated SLA, approved by the Commission, may be necessary to define value added services beyond those provided by the Commission's regulations and the S&CP document.[11] However, a negotiated SLA is neither necessary nor appropriate as a condition for a user to receive basic service.

Thus, under both sections 5.1(j) and 3.2 of the S&CP Document, if a legitimate user's usage creates a problem regarding the system's capabilities, the problem may not be ''corrected'' by disconnecting the user or by limiting that user's use of the system. To avoid any contrary interpretation, we are proposing revisions to 18 CFR 37.5 and 37.6 to make this explicit.

Consistent with this proposal, it follows that large volume usage and automated computer-to-computer file transfers and queries do not constitute the kind of ''excessive use of resources'' eligible for unilateral disconnection by the Responsible Party under section 5.1(j) of the S&CP Document. We are concerned, nevertheless, that a user's grossly inefficient access and use of the system may degrade the performance of the OASIS node. We, therefore, are proposing to revise 18 CFR § 37.5(d) to allow Responsible Parties that are public utilities to seek Commission approval to limit a user's access to the node if that user's grossly inefficient method of accessing an OASIS node or obtaining information from the node degrades the performance of the node.[12] For example, a user may seek data in a resource-intensive wasteful way even though the same data could be obtained as quickly in a far less resource-consuming manner. It also would be grossly inefficient for a customer to seek updates more frequently than information is updated. In such a circumstance, an OASIS provider should instruct the user on how to obtain the information in a less resource-intensive way, and may seek Commission approval to limit access to that user if the OASIS provider can show that: (1) the means of access is grossly inefficient; (2) the node is sufficiently sized to accommodate usage that is not grossly inefficient; and (3) the user was unresponsive to the OASIS provider's attempts to resolve the matter informally.

We earlier stated that large volume usage and automated computer-to-computer file transfers and queries do not constitute the kind of ''excessive use of resources'' eligible for unilateral disconnection by the Responsible Party under section 5.1(j) of the S&CP Document. This being the case, we believe we need to establish a mechanism to govern those situations.

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[6] Order No. 889–A, FERC Stats. & Regs. ¶ 31,049, at 30,574.

[7] *See, e.g.,* §§ 4.2.4, 4.2.4.1, and 4.4 of the S&CP Document.

[8] The Commission also provided for computer-to-computer communications related to natural gas transportation information. In Order No. 587–B, Standards for Business Practices of Interstate Natural Gas Pipelines, FERC Stats. & Regs. ¶ 31,046 at 30,169 (1997), we explained that computer-to-computer communications appear to be needed to conduct natural gas transportation transactions.

[9] The excessive use of resources includes any unauthorized use of an OASIS node. This clarification is not intended to prevent a Responsible Party from disconnecting any unauthorized user, any user who circumvents system security, any user who causes, or attempts to cause, the node to cease functioning, or who otherwise disrupts, or attempts to disrupt, the normal functioning of the node.

[10] SLAs are also referenced in section 5.1(j) of the S&CP Document, quoted in the text above.

[11] Commission approval would not be necessary where the Transmission Provider is nonjurisdictional and operates its OASIS node (or assigns this to a Responsible Party) under Order No. 888's reciprocity requirement.

[12] By ''grossly inefficient'', we intend to address situations where a user fails to adopt more efficient methods of accessing a node or obtaining information in favor of very inefficient methods that may needlessly degrade or damage the node. This is consistent with § 3.6.a of the S&CP Document, which states that a Responsible Party may restrict its responses to overly broad queries that, if answered expansively, would degrade the performance of the node.

It would be impracticable to attempt to delineate all instancs of ''gross inefficiency'' in advance. Accordingly, questions as to whether a particular user's access or use of the node is ''grossly inefficient'' will be resolved on a case-by-case basis whn a Responsible Party seeks Commission approval to restrict a user's access to the node.

We, therefore, are proposing (as discussed above) to revise 18 CFR 37.5(d) to allow Responsible Parties to limit a user's access to the node, with the approval of the Commission, if that user's grossly inefficient method of accessing an OASIS node or obtaining information from the node degrades the performance of the node.

We are proposing that the Commission's approval be needed for disconnection under these circumstances because we: (1) want to avoid unwarranted disconnections or limitations on access; (2) seek to encourage Responsible Parties and OASIS users to resolve these disputes informally, if possible; (3) wish to assure OASIS users that they will not be disconnected without good cause; and (4) hope that, merely by making these clarifications, we will avert or minimize instances of grossly inefficient usage degrading the performance of a node.

Comments by interested persons should address the advantages and disadvantages of the Commission's proposal on the foregoing issue, including the requirement for prior Commission approval of disconnections. Commenters may suggest alternative procedures, with or without prior Commission approval of disconnections, and should explain the relative advantages and disadvantages of their proposals. For example, if an OASIS node is not meeting legitimate customer needs, should Responsible Parties be required to increase the capacity of the node, including adopting the best available technology, and, having done so, then be allowed to disconnect grossly inefficient users without prior Commission approval?

## III. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA)[13] requires any proposed or final rule issued by the Commission to contain a description and analysis of the impact that the proposed or final rule would have on small entities or to contain a certification that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. Order No. 889 contained a certification under § 605(b) of the RFA that the OASIS Final Rule would not have a significant economic impact on small entities within the meaning of the RFA.[14]

As discussed above, this proposal would make three minor revisions to 18 CFR 37.6(e)(3)(ii). Given that we do not expect these minor revisions to have any economic impact and given that we have granted waivers from the requirements of the OASIS Final Rule to small entities where appropriate, and will continue to do so, we hereby certify that the proposed changes in 18 CFR Part 37 would not have a significant economic impact on a substantial number of small entities and that no regulatory flexibility analysis is required pursuant to 5 U.S.C. § 603. In addition, we have proposed revisions to 18 CFR 37.5 and 37.6 that would clarify that a Responsible Party may not deny or restrict access to an OASIS user merely because that user is a large volume, computer-to-computer user of the system. For the reasons cited above, and in Order No. 889, these clarifications will not have a significant economic impact on a substantial number of small entities.

## IV. Environmental Statement

As explained in Order Nos. 888–A and 889–A, Order Nos. 888 and 889 were the joint subjects of the Final Environmental Impact Statement issued in Docket Nos. RM95–8–000 and RM94–7–001 on April 12, 1996. Given that this proposal makes only minor changes in the regulations, none of which would have any environmental impact, no separate environmental assessment or environmental impact statement is being prepared for this proposed rule.

## V. Public Reporting Burden

As discussed previously, this NOPR proposes three minor revisions to 18 CFR 37.6(e)(3)(ii). First, given that information on other uses of congested paths already would be known and available to the person(s) reporting a curtailment/interruption incident, we believe that the proposed requirement to make this information available would have only a minimal, inconsequential impact on the reporting burden under 18 CFR 37.6(e)(3)(ii) and that the changes do not substantially or materially modify the collection of information previously approved by OMB. Second, we do not believe that extending the retention period or extending the category of persons who may request the information will measurably increase the public reporting burden. Third, the NOPR does not add any additional reporting requirements under 18 CFR 37.6(e)(3)(i) or require information to be made available under 18 CFR 37.6(e)(3)(ii) about any events or incidents not already covered under the existing regulation.

Nor do we believe our proposal to amend 18 CFR 37.5 and 37.6 to clarify the required minimum access that Responsible Parties must provide to OASIS users, or to allow (under certain circumstances) limitations on access by grossly inefficient users, will increase the public reporting burden.

Consequently, the public reporting burden associated with issuance of this NOPR is unchanged from our estimation in Order Nos. 889, 889–A, and 889–B.[15] The Commission has conducted an internal review of this conclusion and thereby has assured itself that there is specific, objective support for this information burden estimate. Moreover, the Commission has reviewed the collection of information required by Order Nos. 889, 889–A, and 889–B, and has determined that the collection of information is necessary and conforms to the Commission's plan, as described in those prior orders, for the collection, efficient management, and use of the required information.

## VI. Information Collection Statement

As explained in Order Nos. 889–A and 889–B, Order No. 889 contained an information collection statement for which the Commission obtained approval from the Office of Management and Budget (OMB).[16] Given that the proposed changes on curtailments and interruptions make only minor revisions to the regulation, only one of which would have any possible impact on the previously approved information collection statement (the addition of other uses of the congested path to the information already required to be collected), and given that we expect that this information would already be known to the person assembling information about the curtailment or interruption, we do not believe that these proposed changes would require any revision to the information collection statement approved by OMB for Order No. 889. Nor do we believe that our proposed revisions to 18 CFR 37.5 and 37.6, to clarify the required minimum access Responsible Parties must provide to OASIS users, or to allow (under certain circumstances) limitations on access by grossly inefficient users, would require any revision to the information collection statement approved by OMB for Order No. 889. Accordingly, we conclude that OMB approval for this NOPR will not be necessary. However, the Commission will send a copy of this NOPR to OMB, for informational purposes only.

Interested persons may obtain information on the reporting

[13] 5 U.S.C. §§ 601–612.

[14] *See* Order No. 889, FERC Stats. & Regs. at 31,628.

[15] Order No. 889, FERC Stats. & Regs. ¶ 31,035 at 31,587–88, Order No. 889–A, FERC Stats. & Regs. ¶ 31,049 at 30,549–50, Order No. 889–B, 81 FERC ¶ 61,253 at 62,171.

[16] OMB Control No. 1902–0173.

requirements and associated burden estimates by contacting the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426 [Attention: Michael Miller, Office of the Chief Information Officer, (202) 208–1415], and the Office of Management and Budget [Attention: Desk Officer for the Federal Energy Regulatory Commission (202) 395–3087 (telephone), 202–395–7285 (facsimile)]. In addition, interested persons may file written comments on the collections of information required by this NOPR and associated burden estimates by sending written comments to the Desk Officer for FERC at: Office of Management and Budget, Room 10202 NEOB, Washington, D.C. 20503, within 30 days of publication of this document in the **Federal Register**. Three copies of any comments filed with the Office of Management and Budget also should be sent to the following address: Secretary, Federal Energy Regulatory Commission, Room 1A, 888 First Street, N.E., Washington, D.C. 20426.

## VII. Public Comment Procedure

Prior to taking final action on this proposed rulemaking, we are inviting written comments from interested persons. All comments in response to this notice should be submitted to the Office of Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, and should refer to Docket No. RM98–3–000. An original and fourteen (14) copies of such comments should be filed with the Commission on or before September 21, 1998. Additionally, a copy of the comments also should be submitted to the Commission on computer diskette in WordPerfect 6.1 or ASCII format.

All written submissions to this NOPR will be placed in the public file and will be available for public inspection in the Commission's Public Reference Room, 888 First Street, N.E., Washington, D.C. 20426, during regular business hours.

## List of Subjects in 18 CFR Part 37

Electric utilities.

By direction of the Commission.

**David P. Boergers,**

*Acting Secretary.*

In consideration of the foregoing, the Commission proposes to amend Part 37 in Chapter I, Title 18, *Code of Federal Regulations,* as set forth below.

## PART 37—OPEN ACCESS SAME-TIME INFORMATION SYSTEMS AND STANDARDS OF CONDUCT FOR PUBLIC UTILITIES

1. The authority citation for Part 37 continues to read as follows:

**Authority:** 16 U.S.C. 791–825r, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352.

2. Section 37.5 is amended by redesignating paragraph (c) as paragraph (e), and by adding paragraphs (c) and (d), to read as follows:

### § 37.5 Obligations of Transmission Providers and Responsible Parties.

* * * * *

(c) A Responsible Party may not deny or restrict access to an OASIS user merely because that user makes automated computer-to-computer file transfers or queries, or extensive requests for data.

(d) In the event that an OASIS user's grossly inefficient method of accessing an OASIS node or obtaining information from the node degrades the performance of the node, the Responsible Party should instruct the user on how to obtain the information in a less resource-intensive manner, and may seek Commission approval to limit that user's OASIS access if the matter cannot be resolved informally.

* * * * *

3. Section 37.6 is amended by revising paragraphs (a) intoductory text, (a)(4), (a)(5), and (e)(3)(ii), and by adding paragraph (a)(6) to read as follows:

### § 37.6 Information to be posted on an OASIS.

(a) The information posted on the OASIS must be in such detail and the OASIS must have such capabilities as to allow Transmission Customers to:

* * * * *

(4) Clearly identify the degree to which their transmission service requests or schedules were denied or interrupted;

(5) Obtain access, in electronic format, to information to support available transmission capability calculations and historical transmission service requests and schedules for various audit purposes; and

(6) Make file transfers and automated computer-to-computer file transfers and queries.

* * * * *

(e) * * *

(3) * * *

(ii) Information to support any such curtailment or interruption, including the operating status of the facilities involved in the constraint or interruption and any other uses of the congested path at the time of the curtailment or interruption, must be maintained for three years and provided, upon request, to the curtailed or interrupted customer, the Commission's Staff, and any other person who requests it.

* * * * *

[FR Doc. 98–21016 Filed 8–6–98; 8:45 am]

BILLING CODE 6717–01–P

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

## Food and Drug Administration

## 21 CFR Part 806

**[Docket No. 98N–0439]**

## Medical Devices; Reports of Corrections and Removals; Companion to Direct Final Rule

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

**ACTION:** Proposed rule.

**SUMMARY:** The Food and Drug Administration (FDA) is proposing to amend its regulations governing reports of corrections and removals of medical devices to eliminate the requirement for distributors to make such reports. This proposed rule is a companion document to the direct final rule published elsewhere in this issue of the **Federal Register**. The amendments are being made to implement provisions of the Federal Food, Drug, and Cosmetic Act (the act), as amended by the Food and Drug Administration Modernization Act of 1997 (FDAMA). This companion proposed rule is issued under FDAMA and the act as amended.

**DATES:** Comments must be received on or before October 21, 1998. Comments on the information collection requirements must be received on or before October 6, 1998.

**ADDRESSES:** Submit written comments on the companion proposed rule to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

**FOR FURTHER INFORMATION CONTACT:** Rosa M. Gilmore, Center for Devices and Radiological Health (HFZ–215), Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20857, 301–827–2970.

**SUPPLEMENTARY INFORMATION:**

## I. Background

### *A. Rulemaking Action*

This proposed rule is a companion to the direct final rule published in the

final rules section of this issue of the **Federal Register**. The direct final rule and this companion proposed rule are substantively identical. FDA is publishing the direct final rule because the rule contains noncontroversial changes, and FDA anticipates that it will receive no significant adverse comment. A detailed discussion of this rule is set forth in the preamble of the direct final rule. If no significant comment is received in response to the direct final rule, no further action will be taken related to this proposed rule. Instead, FDA will publish a confirmation document within 30 days after the comment period ends confirming that the direct final rule will go into effect on December 21, 1998. Additional information about FDA's direct final rulemaking procedures is set forth in a guidance published in the **Federal Register** of November 21, 1997 (62 FR 62466).

If FDA receives any significant adverse comment regarding this proposed rule, FDA will publish a document withdrawing the direct final rule within 30 days after the comment period ends and will proceed to respond to all of the comments under this companion proposed rule using usual notice-and-comment procedures. The comment period for this companion proposed rule runs concurrently with the direct final rule's comment period. Any comments received under this companion proposed rule will also be considered comments regarding the direct final rule.

A significant adverse comment is defined as a comment that explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without change. In determining whether a significant adverse comment is sufficient to terminate a direct final rulemaking, FDA will consider whether the comment raises an issue serious enough to warrant a substantive response in a notice-and-comment process. Comments that are frivolous, insubstantial, or outside the scope of the rule will not be considered adverse under this procedure. For example, a comment requesting that device manufacturers report corrections and removals under part 806 (21 CFR part 806) when a report is required and has already been submitted under 21 CFR part 803 will not be considered a significant adverse comment because it is outside the scope of the rule. In addition, if a significant adverse comment applies to part of a rule and that part can be severed from the remainder of the rule, FDA may adopt as final those parts of the rule that are not the subject of a significant adverse comment.

This action is part of FDA's continuing effort to achieve the objectives of the President's ''Reinventing Government'' initiative, and it is intended to reduce the burden of unnecessary regulations on medical devices without diminishing the protection of public health.

*B. Changes Required by FDAMA*

FDAMA amended section 519(f) of the act (21 U.S.C. 360i(f)) to eliminate the requirement that distributors report corrections and removals. Section 519(f)(1) of the act previously required FDA to require device manufacturers, distributors, and importers to report promptly to FDA any correction or removal of a device undertaken : (1) To reduce a risk to health posed by the device; or (2) to remedy a violation of the act caused by a device which may present a risk to health. Section 519(f)(1) of the act also had required that manufacturers, distributors, and importers keep records of those corrections and removals that are not required to be reported to FDA. In accordance with the changes required by FDAMA, the reporting and recordkeeping requirements relating to corrections and removals have been eliminated for distributors. The requirements of the statute and FDA's implementing regulations remain unchanged for manufacturers and importers. In addition, FDAMA did not change the remaining provisions of 519(f) of the act. Section 519(f)(2) of the act provides that no report of a correction or removal action under section 519(f)(1) may be required if a report of the correction or removal is required and has been submitted to FDA under section 519(a), which prescribes rules for reporting and keeping records of certain significant device-related events. Section 519(f)(3) of the act states that the terms ''correction'' and ''removal'' do not include routine servicing.

*C. History of 21 CFR Part 806*

In the **Federal Register** of May 17, 1997 (62 FR 27183), FDA issued a final rule implementing the reports of corrections and removals provisions of the Safe Medical Devices Act of 1990, which required device manufacturers, distributors, and importers to report promptly to FDA any corrections or removals of a device undertaken to reduce a risk to health posed by the device or to remedy a violation of the act caused by the device which may present a risk to health. These regulations were codified in part 806.

In the **Federal Register** of December 24, 1997 (63 FR 67274), FDA announced that it was staying the effective date of the information collection requirements of part 806 because the information collection requirements in the final rule had not yet received approval from the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (the PRA). Following OMB's approval of the collection of information provisions for reports of corrections and removals (see the **Federal Register** of February 17, 1998 (63 FR 7811)), FDA published in the **Federal Register** of April 16, 1998 (63 FR 18836) a final rule lifting the stay of effective date and the information collection requirements became effective May 18, 1998.

On November 21, 1997, the President signed FDAMA into law (Pub. L. 101–115). Section 213 of FDAMA amended section 519(f) of the act by eliminating ''distributors'' from the reporting requirements of the reports of corrections and removals provisions of the act. FDAMA did not change the obligations of device manufacturers and importers, who continue to be required to comply with the existing reporting and recordkeeping provisions of the act for corrections and removals.

## II. Changes to Part 806—Medical Device; Reports of Corrections and Removals

Section 519(f)(1) of the act, as amended by section 213 of FDAMA, no longer requires ''distributors'' to report corrections and removals of medical devices. Accordingly, the following changes are being proposed to part 806 to implement the FDAMA provision:

1. Section 806.1 would be amended in paragraphs (a) and (b)(1) by changing the words ''manufacturers and distributors, including importers,'' to ''manufacturers and importers.''

2. Section 806.2(f) would be amended by eliminating the definition of ''distributor'' that included a person who imports devices into the United States, and replacing that definition of distributor with a separate definition of ''importer.'' For the purposes of this part, ''importer'' would mean any person who imports a device into the United States.

3. Section 806.10 would be revised in paragraphs (a), (b), (c), (c)(2), (c)(4), (d), and (e) to remove the word ''distributor'' each time it appears.

4. Section 806.20 would be amended in paragraphs (a) and (c) to remove the words ''importer, or distributor'' each time they appear and replace them with ''or importer.''

5. Section 806.30 would be amended to remove the words ''importer, or distributor'' each time they appear and replace them with ''or importer.''

## III. Environmental Impact

The agency has determined under 21 CFR 25.30(h) that this proposed action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

## IV. Analysis of Impact

FDA has examined the impact of this companion proposed rule under Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 601–612) (as amended by subtitle D of the Small Business Regulatory Fairness Act of 1996 (Pub. L. 104–121)), and the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). Executive Order 12866 directs agencies to assess all costs of available regulatory alternatives and, when regulatory action is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The agency believes that this proposed rule is consistent with the regulatory philosophy and principles identified in the Executive Order. In addition, the proposed rule is not a significant regulatory action as defined by the Executive Order and therefore not subject to review under the Executive Order.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. The proposed rule eliminates the reporting requirements for ''distributors,'' as mandated by FDAMA, thereby reducing regulatory burdens. The agency, therefore, certifies that this proposed rule, if issued, will not have a significant economic impact on a substantial number of small entities. In addition, this proposed rule will not impose costs of $100 million or more in either the private sector or State, local, and tribal governments in the aggregate, and therefore a summary statement of analysis under section 202(a) of the Unfunded Mandates Reform Act is not required.

## V. Paperwork Reduction Act of 1995

This proposed rule contains information collection provisions that are subject to review by OMB under the PRA (44 U.S.C. 3501–3520). The title, description, and respondent description of the information collection provisions are shown below with an estimate of the annual reporting and recordkeeping burden. Included in the estimate is the time for reviewing the instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing each collection of information.

FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA'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 respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

*Title*: Medical Devices; Reports of Corrections and Removals.

*Description*: FDA is issuing this proposed rule to amend the reporting and recordkeeping requirements for corrections and removals under part 806 to eliminate those requirements for distributors of medical devices. This amendment implements changes made by FDAMA to section 519(f) of the act. FDAMA did not amend section 519(f) of the act with respect to manufacturers and importers. Manufacturers and importers continue to be subject to the requirements of part 806.

*Description of Respondents*: Business or other for profit organizations.

FDA estimates the burden for this collection of information as follows:

TABLE 1.—Estimated Annual Reporting Burden[1]

| 21 CFR Section | No. of Respondents | Annual Frequency per Response | Total Annual Responses | Hours per Response | Total Hours |
|---|---|---|---|---|---|
| 806.10 | 880 | 1 | 880 | 10 | 8,800 |

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2.—Estimated Annual Recordkeeping Burden[1]

| 21 CFR Section | No. of Respondents | Annual Frequency per Response | Total Annual Responses | Hours per Response | Total Hours |
|---|---|---|---|---|---|
| 806.20 | 440 | 1 | 440 | 10 | 4,400 |

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.

The information collection requirements in part 806 prior to this proposed rule have been approved by OMB and assigned control number 0910–0359. When preparing the earlier package for approval of the information collection requirements in part 806, FDA reviewed the reports of corrections and removals submitted in the previous 3 years under 21 CFR part 7 (the agency's recall provisions). During that period of time, no reports of corrections or removals were submitted by distributors. For that reason, FDA did not include distributors among the respondents estimated in the collection burden for the requirements previously approved by OMB. Because distributors were not included in that earlier estimate and because FDAMA now has eliminated requirements for distributor reporting, FDA has determined that estimates of the reporting burden for §§ 806.10 and 806.20 should remain the same.

For consistency with the direct final rule to which this proposed rule is a companion, FDA is following the PRA comment procedures for direct final rules in this proposed rule. As provided

in 5 CFR 1320.5(c)(1), collections of information in a direct final rule are subject to the procedures set forth in 5 CFR 1320.10. Interested persons and organizations may, by October 6, 1998, submit to the Dockets Management Branch (address above) comments on the information collection provisions of this proposed rule.

At the close of the 60-day comment period, FDA will review the comments received, revise the information collection provisions as necessary, and submit these provisions to OMB for review. FDA will publish a document in the **Federal Register** when the information collection provisions are submitted to OMB, and an opportunity for public comment to OMB will be provided at that time. Prior to the effective date of the final rule, FDA will publish a document in the **Federal Register** of OMB's decision to approve, modify, or disapprove the information collection provisions. 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.

## VI. Comments

Interested persons may, on or before October 21, 1998, submit to the Dockets Management Branch (address above) written comments regarding this proposal. This comment period runs concurrently with the comment period for the direct final rule. 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 the brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. All comments received will be considered comments regarding the direct final rule and this proposed rule. In the event the direct final rule is withdrawn, all comments received will be considered comments on this proposed rule.

## List of Subjects in 21 CFR Part 806

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

Therefore, under the Federal Food, Drug, and Cosmetic Act, and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR part 806 be amended as follows:

1. The part heading for part 806 is revised to read as follows:

## PART 806—MEDICAL DEVICES; REPORTS OF CORRECTIONS AND REMOVALS

2. The authority citation for 21 CFR part 806 continues to read as follows:

**Authority:** 21 U.S.C. 352, 360, 360i, 360j, 371, 374.

3. Section 806.1 is amended by revising paragraphs (a) and (b)(1) to read as follows:

### § 806.1 Scope.

(a) This part implements the provisions of section 519(f) of the Federal Food, Drug, and Cosmetic Act (the act) requiring device manufacturers and importers to report promptly to the Food and Drug Administration (FDA) certain actions concerning device corrections and removals, and to maintain records of all corrections and removals regardless of whether such corrections and removals are required to be reported to FDA.

(b) * * *

(1) Actions taken by device manufacturers or importers to improve the performance or quality of a device but that do not reduce a risk to health posed by the device or remedy a violation of the act caused by the device.

* * * * *

4. Section 806.2 is amended by revising paragraph (f) to read as follows:

### § 806.2 Definitions.

* * * * *

(f) ''Importer'' means, for the purposes of this part, any person who imports a device into the United States.

* * * * *

5. Section 806.10 is amended by revising paragraphs (a) and (b), the introductory text of paragraph (c), paragraph (c)(2), and the last sentence of paragraph (c)(4); and in paragraphs (d) and (e) by removing the word '', distributor,'' each time it appears to read as follows:

### § 806.10 Reports of corrections and removals.

(a) Each device manufacturer or importer shall submit a written report to FDA of any correction or removal of a device initiated by such manufacturer or importer if the correction or removal was initiated:

(1) To reduce a risk to health posed by the device; or

(2) To remedy a violation of the act caused by the device which may present a risk to health unless the information has already been provided as set forth in paragraph (f) of this section or the corrective or removal action is exempt from the reporting requirements under § 806.1(b).

(b) The manufacturer or importer shall submit any report required by paragraph (a) of this section within 10-working days of initiating such correction or removal.

(c) The manufacturer or importer shall include the following information in the report:

* * * * *

(2) The name, address, and telephone number of the manufacturer or importer, and the name, title, address, and telephone number of the manufacturer or importer representative responsible for conducting the device correction or removal.

* * * * *

(4) * * * A manufacturer or importer that does not have an FDA establishment registration number shall indicate in the report whether it has ever registered with FDA.

* * * * *

6. Section 806.20 is amended by revising paragraphs (a) and (c) to read as follows:

### § 806.20 Records of corrections and removals not required to be reported.

(a) Each device manufacturer or importer who initiates a correction or removal of a device that is not required to be reported to FDA under § 806.10 shall keep a record of such correction or removal.

* * * * *

(c) The manufacturer or importer shall retain records required under this section for a period of 2 years beyond the expected life of the device, even if the manufacturer or importer has ceased to manufacture or import the device. Records required to be maintained under paragraph (b) of this section must be transferred to the new manufacturer or importer of the device and maintained for the required period of time.

7. Section 806.30 is revised to read as follows:

### § 806.30 FDA access to records.

Each device manufacturer or importer required under this part to maintain records and every person who is in charge or custody of such records shall, upon request of an officer or employee designated by FDA and under section 704(e) of the act, permit such officer or employee at all reasonable times to have access to, and to copy and verify, such records and reports.

Dated: July 9, 1998.

**William B. Schultz,**

*Deputy Commissioner for Policy.*

[FR Doc. 98–21092 Filed 8–6–98; 8:45 am]

BILLING CODE 4160–01–F

## DEPARTMENT OF TRANSPORTATION

## Coast Guard

## 33 CFR PART 165

**[CGD09–97–002]**

**RIN 2115–AE84**

## Regulated Navigation Area—Air Clearance Restrictions at the Entrance to Lakeside Yacht Club and the Northeast Approach to Burke Lakefront Airport in Cleveland Harbor, OH

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to establish a regulated navigation area at the entrance to the Lakeside Yacht Club in Cleveland Harbor, Ohio, underneath the northeast approach to the Burke Lakefront Airport, in order to avoid conflict with the safety parameters for an instrument-guided aircraft approach slope. The regulation would create a set of restricted areas, some of which would prohibit docking of vessels of certain heights, others which would require vessels of certain heights to obtain clearance from the Airport before entering or leaving the entrance to the yacht club during times when the instrument system is in use. Vessels with masts less than 41 feet above the waterline would not be affected at all, and vessels less than 45 feet in height would not be required to make any change in their normal areas of navigation or docking. Vessels with masts between 45 and 95 feet would be subject to a requirement to obtain a routine clearance by radio or telephone before navigating through the area, and vessels between 53 and 95 feet would be limited to certain specified areas for docking. Vessels 95 feet and above, none of which are currently using the area, would be prohibited from any entry into the area.

**DATES:** Comments must be received on or before November 5, 1998.

**ADDRESSES:** Comments and supporting materials may be mailed or delivered to Lieutenant Lynn Goldhammer, Assistant Chief, Marine Safety Analysis and Policy Branch, Ninth Coast Guard District, Room 2069, 1240 E. Ninth Street, Cleveland, Ohio, 44199–2060. Comments may also be telefaxed to (216) 902–6059. Please reference the name of the proposal and the docket number [CGD09–97–002] in any communication. If you wish receipt of your mailed comment to be acknowledged, please include a stamped self-addressed envelope or postcard for that purpose. Comments and materials received will be available for public inspection at the above location from 9 a.m. to 3 p.m. Monday through Friday except federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Lynn Goldhammer, Assistant Chief, Marine Safety Analysis and Policy Branch, Ninth Coast Guard District, Room 2069, 1240 E. Ninth Street, Cleveland, Ohio, 44199–2060, (216) 902–6050.

*Request for Comments:* The Coast Guard encourages interested persons to participate in this rulemaking by submitting comments which may consist of data, views, arguments, or proposals for amendments to the proposed regulations. The Coast Guard does not currently plan to have a public hearing. However, consideration will be given to holding a public hearing if it is requested. Such a request should indicate how a public hearing would contribute substantial information or views which cannot be received in written form. If it appears that a public hearing would substantially contribute to this rulemaking and there is sufficient time to publish a notice, the Coast Guard will announce such a hearing by a later notice in the **Federal Register.** The Coast Guard will consider all comments received before the closing date indicated above, and may amend or revoke this proposal in response to such comments.

### Background and Purpose

Burke Lakefront Airport, located next to Cleveland Harbor in Cleveland, Ohio, proposes to install an instrument-guided approach system for the northeast approach to the Airport which is important to maintaining safe and commercially viable airport operations. Under Federal Aviation Administration flight standards, this instrument-guided approach, during times when available for use, will require a more extensive zone of air clearance than the existing visual approach. The Lakeside Yacht Club is located in Cleveland Outer harbor near the northeast end of the runway, and the entrance channel leading into the yacht club docks is immediately adjacent to the end of the runway (Runway 24R). The configuration of the area between the airport and the yacht club is depicted in Figure 1.

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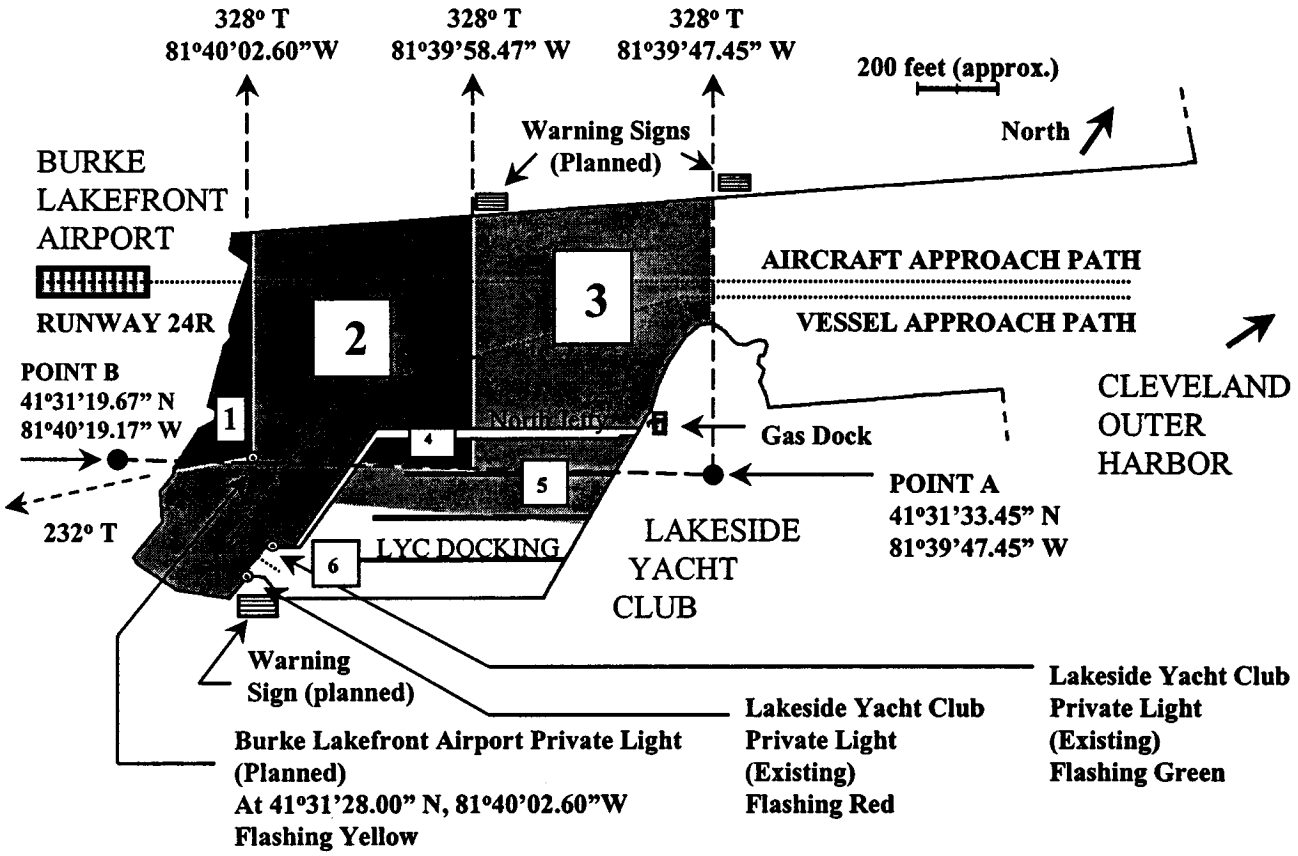
**Figure 1. Approach to Lakeside Yacht Club and Minimum Air Clearances for Burke Lakefront Airport Instrument Approach**




**Restricted Areas, Based on an Extreme High Water Level of 577' Mean Sea Level (MSL)**

| *Area* | *MSL Air Clearance* | *Applicable Mast Heights* | *Restrictions* |
|---|---|---|---|
| 1 | 618 | 41 feet | No entry |
| 2 | 622 | 45 feet | No entry unless cleared, during designated times |
| 3 | 640 | 63 feet | No entry unless cleared, during designated times |
| 4 | 630 | 53 feet | No entry (no dockage) |
| 5 | 640 | 63 feet | No entry (no dockage) |
| 6 | 672 | 95 feet | No entry (no use of Yacht Club areas) |

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The shaded areas in Figure 1 are those areas over water where the safety parameters of the instrument approach system create relevant restrictions on the height of vessel structures, in feet, with clearance levels indicated in both mean sea level (MSL) and height over high water (applicable mast heights) based on an extreme high water level of 577 feet MSL. The actual boundaries of the area are defined by exact geographic coordinates specified in the proposed regulation, based on calculations from the Federal Aviation Administration. Illustration 1 is an approximate guide to how those coordinates and areas will fall over the area when those coordinates are mapped on to a nautical chart by the National Oceanic and Atmospheric Administration.

The Airport proposal raises two questions: (1) What restriction on vessel heights would be required to avoid conflict with the approach slope safety parameters? (2) How can those parameters be protected without undue restriction on vessel navigation and the operation of the yacht club?

**Clearance Requirements**

Under the current plan for an instrument-guided approach being considered by Burke Lakefront Airport and the Federal Aviation Administration, the center line of the approach path comes down along the northwest side of the Lakeside yacht Club entrance channel. This creates the need for an air clearance area which becomes lower as the approach nears the southwest end of the channel. In addition to the main clearance area directly under the main approach path, there is a slanted clearance area to the side of the main approach path which accounts for the skewing of the air clearance areas over the south end of the channel. This air clearance area extends down to as low as 618 feet above mean sea level (MSL) at the south end of the entrance channel. The main part of the channel used by vessels to transit in and out of the Lakeside Yacht Club docks (which normally bear to the east side of the entrance along the south extension of the jetty, where there is the best water depth) is covered by an air clearance area ranging from 622 to 640 feet above MSL. Although there are no measurable tides on the Great Lakes, water levels vary according to yearly climate, season, and weather. Water levels tend to run highest during the summer. In addition, they are subject to short-term increases due to wind, storm surge, and seiches. Therefore, safety parameters should be based on the highest recorded levels. The long-term monthly average level (1860 through 1990) for Cleveland is 572.2 feet MSL, but levels have reached a monthly average high of 573.9 feet MSL (July 1996) and an all-time hourly high of 576.3 feet MSL (in February 1987). Rounding up this all-time hourly high, which reflects the variations which can be created by storm conditions, suggests 577 MSL as the safe figure for high water to be subtracted from the mean sea level air clearance. This is the basis for the ''applicable mast heights'' assigned to the various restricted areas marked on Figure 1. One of these restricted areas, area no. 1, which applies to vessels with heights as low as 41 feet, in fact covers an area of shallow and obstructed water outside of the normal route in and out of the club, and therefore does not actually affect the normal navigation of any sailboats as long as they avoid accidentally wandering into that area. The relevant limit, at which some boats become affected, is therefore the limit of 45 feet within restricted area no. 2.

**Yacht Club Operations**

The yacht club currently accommodates a number of sailboats with mast heights ranging from 45 to 65 feet above the water line, including sailboats belonging to members of the Club and others visiting the Club, which would be affected by these restrictions. There is sufficient available room for docking vessels with masts as high as 95 feet in Club facilities located further away from the end of the runway than the entrance channel, without intruding into the glide slope safety parameters. The primary problem, therefore, is to avoid a conflict during the time that sailboats with masts of 45 feet or more are entering or leaving the entrance channel. In discussions held between representatives of the yacht club and the Airport, it was agreed that the interests of both parties could be accommodated by a system for clearing vessels with high masts for transit with the traffic control tower. Vessel operators would be advised of the requirements to obtain clearance by a regulatory notice on the nautical charts, various warning signs to be provided by the Airport, and notice to the members of the yacht club. In addition, the airport agreed to build a permanent fixed marker with a light alongside the entrance channel, marking the outer corner of restricted area no. 1 in order to facilitate the safe passage through the preferred half of the channel. Clearance for transit through areas no. 2 and 3 would be obtained by telephone or radio call to the Burke Lakefront Air Traffic Control Tower, with radio calls being made on marine band channel 14. This is an area wholly within the protection of Cleveland Harbor, with additional protection from wave action provided by the airport landfill to the north. It therefore should not be unsafe for vessels to temporarily hold up outside the entrance to the yacht club on the rare occasions when clearance is required and cannot be granted. There is also a fueling dock on the outside of the entrance, within area no. 3, providing a location where most vessels requiring clearance can temporarily tie up if necessary. Vessels 63 feet in height and over would have to obtain clearance further in advance before entering area no. 3 and the fueling dock location. It is anticipated that times when a vessel would actually be required to hold up would be rare, because it is not necessary when aircraft make normal visual approaches, and the expected time that a vessel would have to hold up is a maximum of fifteen minutes. In addition, the regulation would provide for advance group clearances to be provided for the convenience of the yacht club to accommodate planned events such as regattas on weekends.

Given the agreement between the two relevant parties, the airport's commitment to provide the warning sign, lighted channel marker, and clearance procedures, and the limited number of larger sailboats which may be affected by the clearance requirement, the Coast Guard views this proposal as a reasonable and safe solution as long as both parties maintain their existing commitment to cooperate in making the clearance system work. In order to be able to assure the Federal Aviation Administration that conflict will be avoided, and to insure the safety of both vessels and aircraft, the Coast Guard proposes to promulgate this vessel clearance requirement as a regulated navigation area. In order to be assured that this solution is both safe and fair, the Coast Guard specifically requests comments on the safety and practicality of the proposed regulation, from the point of view of both vessel and airport operations.

*Drafting Information*

The drafter of this regulation is Commander Eric Reeves, Chief, Marine Safety Analysis and Policy Branch, Ninth Coast Guard District.

*Environment*

The Coast Guard has considered the environmental impact of this regulation and concluded that, under Figure 2–1, paragraph (34)(g) of Coast Guard Commandant Instruction M16475.1C, it is categorically excluded from further environmental documentation, and has so certified in the docket file.

*Federalism*

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

*Regulatory Evaluation*

This regulation is considered to be nonsignificant under Executive Order 12866 on Regulatory Planning and Review and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034 of February 26, 1979).

*Small Entities*

The economic impact of this regulation is expected to be so minimal that a full regulatory evaluation is unnecessary. Since the impact of this regulation is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

*Collection of Information*

This regulation will impose no collection of information requirements under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

**List of Subjects in 33 CFR Part 165**

Harbors, Marine Safety, Navigation (water), Security measures, Vessels, Waterways.

*Regulations:* In consideration of the foregoing, the Coast Guard proposes to amend Subpart C of Part 165 of title 33, Code of Federal Regulations as follows:

1. The authority citation for Part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–6, and 160.5; and 49 CFR 1.46.

2. A new section is added to read as follows:

**§ 165.906 Lakeside Yacht Club in Cleveland Harbor, Cleveland, Ohio—regulated navigation areas.**

(a) *Restricted Areas.* The following are areas inside Cleveland Harbor which are subject to navigational restrictions based on the height of masts or other structures specified in paragraph (b) of this section. All of these areas are inside the ''Lakeside Yacht Club entrance channel,'' defined as the water area between the Lakeside Yacht Club jetties and the Burke Lakefront Airport landfill, or inside the ''Lakeside Yacht Club docks,'' defined as the docking area inside the Lakeside Yacht Club jetties and immediately adjacent to Lakeside Yacht Club.

(1) *Restricted area no. 1.* Restricted area no. 1 is the water area on the southwest end of the Lakeside Yacht Club entrance channel which is southwest of a line running 328° T and northwest of a line running 232° T from a point 41°31′28.00″ N, 81°40′02.60″ W, which point is marked by a fixed flashing yellow light.

(2) *Restricted area no. 2.* Restricted area no. 2 is the water area of the Lakeside Yacht Club entrance channel which is outside restricted area no. 1 and the entrance to the Yacht Club docking area, and southwest of a line running 328° T from the intersection of 81°39′58.47″ W and a reference line running between point A at 41°31′33.45″ N, 81°39′47.45″ W and point B at 41°31′19.67″ N, 81°40′19.17″ W.

(3) *Restricted area no. 3.* Restricted area no. 3 is the water area of the Lakeside Yacht Club entrance channel which is outside restricted area no. 1, and southwest of a line running 328° T from point A at 41°31′33.45″ N, 81°39′47.45″ W.

(4) *Restricted area no. 4.* Restricted area no. 4 is the area inside the Lakeside Yacht Club docks which is southwest of a line running 328° T from the intersection of 81°39′58.47″ W and a reference line running between point A at 41°31′33.45″ N, 81°39′47.45″ W, and point B at 41°31′19.67″ N, 81°40′19.17″ W, and northwest of the same reference line.

(5) *Restricted area no. 5.* Restricted area no. 5 is the area inside the Lakeside Yacht Club docks which is outside restricted area 4 and northwest of a line 183 feet southeast and parallel to a reference line running between point A at 41°31′33.45″ N, 81°39′47.45″ W and point B at 41°31′19.67″ N, 81°40′19.17″ W.

(6) *Restricted area no. 6.* Restricted area no. 6 is the area inside the Lakeside Yacht Club docks which is outside restricted areas 4 and 5.

(b) *Restrictions applicable to vessels of certain heights.* Vessels of certain heights are subject to the following restrictions with reference to the restricted areas detailed in paragraph (a) of this section. The height of a vessel is the height above the waterline of masts, antennas, navigational equipment, or any other structure.

(1) *Less than 41 feet.* Vessels less than 41 feet in height are not subject to any restrictions under this section.

(2) *41 to 45 feet.* Vessels 41 feet and less than 45 feet in height may not enter restricted area 1.

(3) *45 to 53 feet.* Vessels 45 feet and less than 53 feet in height may not enter restricted area 1 and must comply with the clearance procedures prescribed in paragraph (c) of this section when navigating through restricted area 2.

(4) *53 to 63 feet.* Vessels 53 feet and less than 63 feet in height may not enter restricted area 1, must comply with the clearance procedures prescribed in paragraph (c) of this section when navigating through restricted area 2, and may not dock in or enter restricted area 4 at any time.

(5) *63 to 95 feet.* Vessels 63 feet and less than 95 feet in height may not enter restricted area 1, must comply with the clearance procedures prescribed in paragraph (c) of this section when navigating through restricted areas 2 or 3, and may not dock in or enter restricted areas 4 or 5 at any time.

(6) *95 feet or more.* Vessel 95 feet or more in height may not enter any of the restricted areas, areas 1 through 6, at any time.

(c) *Clearance procedures.* Except during the times specified in paragraph (d), of this section vessels subject to these procedures must obtain clearance from the Burke Lakefront Air Traffic Control Tower before navigating through the restricted area(s), navigate promptly through the area(s) at a safe and practical speed, and promptly inform the Burke Lakefront Air Traffic Control Tower after clearing the restricted area(s), or of any difficulty preventing prompt clearance. The Burke Lakefront Air Traffic Control Tower may be contacted on marine radio channel 14, or by telephone at (216) 781–6411. Navigation at safe and practical speed includes brief stops at the fueling dock inside restricted area 3 by vessels between 63 and 95 feet in height. Clearance may also be obtained for longer periods, and for groups of vessels, for times arranged in advance with Burke Lakefront Airport by any appropriate means of communication, including prior written agreement with the Airport.

(d) *Suspension of clearance requirements.* The clearance procedures specified in paragraph (c), of this section do not apply during the following times, during which vessels which would otherwise be required to obtain clearance may proceed without doing so:

(1) 11:00 p.m. on Friday to 7:00 a.m. on Saturday.

(2) 11:00 p.m. on Saturday to 8:00 a.m. on Sunday.

(3) 12:00 midnight Sunday night to 7:00 a.m. on Monday.

(e) *Suspension of Applicability.* This section does not apply during any period in which the Federal Aviation Administration withdraws approval for operation of an instrument-only

approach to runway 24 on the northeast end of Burke Lakefront Airport.

Dated: July 14, 1998.

**G.S. Cope,**

*Captain, U.S. Coast Guard Acting Commander, Ninth Coast Guard District.*

[FR Doc. 98–21186 Filed 8–6–98; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY
## 40 CFR Part 52

**[CA 207–0086; FRL–6138–7]**

## Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, San Joaquin Valley Unified Air Pollution Control District

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing a limited approval and limited disapproval of a revision to the San Joaquin Valley Unified Air Pollution Control District's portion of the California State Implementation Plan (SIP) that concerns the control of volatile organic compound (VOC) emissions from a variety of sources.

The intended effect of proposing limited approval and limited disapproval of this rule is to regulate emissions of VOCs in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). EPA's final action on this proposed rule will incorporate this rule into the federally approved SIP. EPA has evaluated the rule and is proposing a simultaneous limited approval and limited disapproval under provisions of the CAA regarding EPA action on SIP submittals and general rulemaking authority because this revision, while maintaining the SIP, does not fully meet the CAA provisions regarding plan submissions and requirements for nonattainment areas.

**DATES:** Comments must be received on or before September 8, 1998.

**ADDRESSES:** Comments may be mailed to: Andrew Steckel, Rulemaking Office [AIR–4], Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Copies of the rule and EPA's evaluation report of the rule are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rule are also available for inspection at the following locations:

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 ''L'' Street, Sacramento, CA 95814.

San Joaquin Valley Unified Air Pollution Control District, 1999 Tuolumne Street, Suite #200, Fresno, CA 93721.

**FOR FURTHER INFORMATION CONTACT:** Yvonne Fong, Rulemaking Office, [AIR–4], Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901, Telephone: (415) 744–1199.

**SUPPLEMENTARY INFORMATION:**

### I. Applicability

San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) Rule 4661, Organic Solvents is being proposed for approval into the California SIP. This rule was submitted by the California Air Resources Board (CARB) to EPA on March 10, 1998. Eighteen rules from the San Joaquin Valley Air Basin's eight counties will be rescinded from their respective SIPs upon final action by EPA on the version of SJVUAPCD Rule 4661 submitted March 10, 1998. A detailed list of the rules to be rescinded from the county SIPs can be found in the Technical Support Document (TSD) for Rule 4661 (July 1, 1998), which is available from the U.S. EPA, Region IX office.

### II. Background

On March 3, 1978, EPA promulgated a list of ozone nonattainment areas under the provisions of the 1977 Clean Air Act (1977 CAA or pre-amended Act), that included the San Joaquin Valley Air Basin which encompassed the air pollution control districts of the following eight counties: Fresno, Kern,[1] Kings, Madera, Merced, San Joaquin, Stanislaus, and Tulare. 43 FR 8964; 40 CFR 81.305. Because some of these areas were unable to meet the statutory attainment date of December 31, 1982, California requested under section 172(a)(2), and EPA approved, an extension of the attainment date to December 31, 1987.[2] On May 26, 1988, EPA notified the Governor of California, pursuant to section 110(a)(2)(H) of the pre-amended Act, that the above district's portion of the SIP was inadequate to attain and maintain the ozone standard and requested that deficiencies in the existing SIP be corrected (EPA's SIP-Call). On November 15, 1990, amendments to the 1977 CAA were enacted. Pub. L. 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q.

On March 20, 1991, the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) was formed. The SJVUAPCD has authority over the San Joaquin Valley Air Basin, which includes all of the above eight counties except for the Southeast Desert Air Basin portion of Kern County. Thus Kern County Air Pollution Control District (Kern) still exists, but only has authority over the Southeast Desert Air Basin portion of Kern County. The San Joaquin Valley Area is classified as serious.

The State of California submitted many rules to EPA for incorporation into its SIP on March 10, 1998, including the rule being acted on in this document. This document addresses EPA's proposed action for SJVUAPCD Rule 4661, Organic Solvents. The SJVUAPCD adopted Rule 4661 on December 17, 1992. This submitted rule was found to be complete on May 21, 1998 pursuant to EPA's completeness criteria that are set forth in 40 CFR Part 51, Appendix V[3] and is being proposed for limited approval and limited disapproval.

Rule 4661 controls the emission of volatile organic compounds (VOCs) from organic solvent use. VOCs contribute to the production of ground level ozone and smog. The eighteen county rules listed in the TSD for this rule were originally adopted as part of the district's effort to achieve the National Ambient Air Quality Standard (NAAQS) for ozone. SJVUAPCD Rule 4661 is a new rule which was adopted to meet EPA's SIP-Call and the section 110(a)(2)(A) CAA requirement and which will supercede those eighteen county rules. The following is EPA's evaluation and proposed action for SJVUAPCD Rule 4661.

### III. EPA Evaluation and Proposed Action

In determining the approvability of a VOC rule, EPA must evaluate the rule for consistency with the requirements of the CAA and EPA regulations, as found

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[1] At the time, Kern County included portions of two air basins: the San Joaquin Valley Air Basin and the Southeast Desert Air Basin. The San Joaquin Valley Air Basin portion of Kern County was designated as nonattainment, and the Southeast Desert Air Basin portion of Kern County was designated as unclassified. The Southeast Desert portion of Kern County was subsequently redesignated as nonattainment and classified as serious on November 6, 1991. See 56 FR 56694.

[2] This extension was not requested for the following counties: Kern, Kings, Madera, Merced, and Tulare. Thus, the attainment date for these counties remained December 31, 1982.

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

in section 110 and Part D of the CAA and 40 CFR Part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans). The EPA interpretation of these requirements, which forms the basis for today's action, appears in ''Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations, Clarification to Appendix D of November 24, 1987 **Federal Register** Notice'' (Blue Book) (notice of availability was published in the **Federal Register** on May 25, 1988). In general, this guidance document has been set forth to ensure that VOC rules are fully enforceable and strengthen or maintain the SIP.

There is currently no version of SJVUAPCD Rule 4661, Organic Solvents in the SJVUAPCD portion of the California SIP. All the major requirements of SJVUAPCD Rule 4661, however, are derived from the eighteen county SIP rules listed in the TSD for this rule. The SJVUAPCD Rule 4661 submitted on March 10, 1998 includes the following provisions:

- Prohibits the discharge of more than 15 pounds per day or 3 pounds per hour of organic materials that come in contact with heat unless controlled to 85% (Section 5.1),
- Prohibits the discharge of more than 40 pounds per day or 8 pounds per hour of photochemically reactive solvent unless controlled to 85% (Section 5.2),
- Prohibits the discharge of more than 3,000 pounds per day or 450 pounds per hour of non-photochemically reactive solvent unless controlled to 85% (Section 5.3),
- Requires emissions of organic materials that occur when they are used for cleanup and that occur when drying products after their removal from any operation be included with other emissions when determining compliance with the rule (Sections 5.4 and 5.5),
- Specifies acceptable forms of controls (Section 5.6),
- Requires monitoring of all operating conditions necessary to determine the degree and effectiveness of controls (Section 5.7),
- Requires users of organic solvents to provide information on the composition, properties, and consumption of each solvent used (Section 5.8), and
- Limits the daily disposal of photochemically reactive solvent by any means which will permit its evaporation into the atmosphere to 1.5 gallons (Section 5.9).

EPA has evaluated SJVUAPCD submitted Rule 4661 for consistency with the CAA, EPA regulations, and EPA policy and has found that while Rule 4661 provides one set of requirements for the entire San Joaquin Valley Air Basin, it fails to maintain the clarity and enforceability of the original eighteen county rules that it seeks to replace.

Although approval of SJVUAPCD Rule 4661 and recision of the eighteen county rules will maintain the SIP and alleviate problems associated with the listing of all applicable requirements in Title V source permits, Rule 4661 still contains a deficiency that is required to be corrected pursuant to the section 110(a)(2)(A) and Part D requirements of the CAA.

Section 4.2 states that Rule 4661 shall not apply to any source which is in full compliance with the provisions of other applicable rules in Regulation IV (Prohibitions). This exemption does not specify that it applies only in situations where sources are in compliance with other SIP-approved rules. One way the District can correct this deficiency is by revising Section 4.2 to list the specific Regulation IV rules that have been approved into the SIP. A detailed discussion of this deficiency can be found in the TSD for this rule. Because of this deficiency, the rule is not fully approvable pursuant to section 110(a)(2)(A) of the CAA because it is not consistent with the interpretation of section 172 of the 1977 CAA as found in the Blue Book and may lead to rule enforceability problems.

Because of the above deficiency, EPA cannot grant full approval of this rule under section 110(k)(3) and part D. Also, because the submitted rule is not composed of separable parts which meet all the applicable requirements of the CAA, EPA cannot grant partial approval of the rule under section 110(k)(3). However, EPA may grant a limited approval of the submitted rule under section 110(k)(3) in light of EPA's authority pursuant to section 301(a) to adopt regulations necessary to further air quality by strengthening the SIP. The approval is limited because EPA's action also contains a simultaneous limited disapproval. In order to maintain the SIP, EPA is proposing a limited approval of SJVUAPCD Rule 4661 under sections 110(k)(3) and 301(a) of the CAA.

At the same time, EPA is also proposing a limited disapproval of this rule because it contains a deficiency under section 110(a)(2)(A) of the CAA, and, as such, the rule does not fully meet the requirements of part D of the Act. Under section 179(a)(2), if the Administrator disapproves a submission under section 110(k) for an area designated nonattainment, based on the submission's failure to meet one or more of the elements required by the Act, the Administrator must apply one of the sanctions set forth in section 179(b) unless the deficiency has been corrected within 18 months of such disapproval. Section 179(b) provides two sanctions available to the Administrator: highway funding and offsets. The 18 month period referred to in section 179(a) will begin on the effective date of EPA's final limited disapproval. Moreover, the final disapproval triggers the Federal implementation plan (FIP) requirement under section 110(c). It should be noted that the rule covered by this proposal has been adopted by the SJVUAPCD and is currently in effect in the district. EPA's final limited disapproval action will not prevent SJVUAPCD or EPA from enforcing this rule.

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

## IV. Administrative Requirements

### *A. Executive Orders 12866 and 13045*

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.) 12866 review.

The proposed rule is not subject to E.O. 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks,'' because it is not an ''economically significant'' action under E.O. 12866.

### *B. Regulatory Flexibility Act*

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under sections 110 and 30l, and subchapter I, part D of the CAA do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, the Administrator certifies that it does not have a significant impact on any small

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

*C. Unfunded Mandates*

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

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

**List of Subjects in 40 CFR Part 52**

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

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

Dated: July 30, 1998.

**Felicia Marcus,**

*Regional Administrator, Region IX.*

[FR Doc. 98–21208 Filed 8–6–98; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 62

**[OH116–1b; FRL–6134–4]**

## Approval and Promulgation of State Plans for Designated Facilities and Pollutants; Ohio; Control of Landfill Gas Emissions From Existing Municipal Solid Waste Landfills

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

**ACTION:** Proposed rule.

**SUMMARY:** USEPA is proposing to approve the Ohio State Plan submittal for implementing the Municipal Solid Waste (MSW) Landfill Emission Guidelines. The State's plan submittal was made pursuant to requirements found in the Clean Air Act (CAA). The State's plan was submitted to USEPA in accordance with the requirements for adoption and submittal of State plans for designated facilities in title 40 of the Code of Federal Regulations part 60 (40 CFR part 60), subpart B. In the final rules section of this **Federal Register,** the USEPA is approving the State's request as a direct final rule without prior proposal because USEPA views this action as noncontroversial and anticipates no adverse comments. A detailed rationale for approving the State's request is set forth in the direct final rule. The direct final rule will become effective without further notice unless USEPA receives relevant adverse written comment. Should USEPA receive such comment, it will publish a final rule informing the public that the direct final rule will not take effect and such public comment received will be addressed in a subsequent final rule based on the proposed rule. If no adverse written comments are received, the direct final rule will take effect and no further action will be taken on this proposed rule. USEPA does not plan to institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

**DATES:** Written comments must be received on or before September 8, 1998.

**ADDRESSES:** Written comments may be mailed to J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), Region 5 at the address listed below.

Copies of the materials submitted by the Ohio Environmental Protection Agency (OEPA) may be examined during normal business hours at the following locations:

Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois, 60604.

OEPA, Division of Air Pollution Control, 1800 Watermark Drive, Columbus, OH 43215.

**FOR FURTHER INFORMATION CONTACT:** Randolph O. Cano at (312) 886–6036.

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

Dated: July 24, 1998.

**David A. Ullrich,**

*Acting Regional Administrator, Region V.*

[FR Doc. 98–21031 Filed 8–6–98; 8:45 am]

BILLING CODE 6560–50–M

## GENERAL SERVICES ADMINISTRATION

## 41 CFR Part 101–44

**RIN 3090–AG77**

## Donations to Service Educational Activities

**AGENCY:** Office of Governmentwide Policy, GSA.

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule would amend the regulation issued by GSA for donations made to educational activities of special interest to the armed services. The changes are necessary to comply with subsection 203(j)(2) of the Federal Property and Administrative Services Act of 1949, as amended. Subsection 203(j)(2) requires all donations of surplus property under the control of the Department of Defense (DOD) to service educational activities (SEAs) to be made through State Agencies for Surplus Property (SASPs). Currently, SEAs acquire property directly from DOD disposal facilities.

**DATES:** Submit comments on or before September 8, 1998.

**ADDRESSES:** Mail comments to the Personal Property Management Policy Division (MTP), Office of Governmentwide Policy, General Services Administration, 1800 F Street, NW, Washington, DC 20405.

**FOR FURTHER INFORMATION CONTACT:** Martha Caswell, Director, Personal Property Management Policy Division (202–501–3846).

**SUPPLEMENTARY INFORMATION:** Under this rule, the SASPs will assume responsibilities that were previously performed by the DOD including: (1) distributing the donated property to the

SEAs; (2) conducting utilization surveys and reviews during the period of restriction to ensure that donated property is being used by the SEA donees for the purposes for which it was donated; and (3) monitoring compliance by the SEA donees with the conditions specified in § 101–44.208 (except for § § 101–44.208(a)(3) and (4)).

Additionally, it is important to note that the SEAs are not subject to any additional terms, conditions, reservations, or restrictions imposed by the SASPs. This exemption is provided by subsection 203(j)(4)(E) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 484(j)(4)(E)). Therefore, new proposed FPMR subsections 101–44.400(c)(5) and 101–44.401(b) specifically state that regulatory provisions at FPMR 101–44.208(a)(3) and (4) governing the imposition by SASPs of additional terms, conditions, reservations, or restrictions do not apply to donations of surplus DOD personal property to eligible SEAs.

This proposed rule is not a major rule for the purposes of Executive Order 12866. This rule is not required to be published in the **Federal Register** for notice and comment. Therefore, the Regulatory Flexibility Act does not apply.

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.

The rule is written in a new, simpler to read and understand, question and answer format. In the new format, a question and its answer combine to establish a rule. This means the employee and the agency must follow the language contained in both the question and its answer.

**List of Subjects in 41 CFR Part 101–44**

Government property management, Reporting requirements, Surplus Government property.

For the reasons stated in the preamble, GSA proposes to amend 41 CFR Part 101–44 as follows:

## PART 101–44—DONATION OF PERSONAL PROPERTY

1. The authority citation for 41 CFR Part 101–44 continues to read as follows:

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

## Subpart 101–44.4—Donations to Service Educational Activities

2. Subpart 101–44.4 is revised to read as follows:

Sec.
§ 101–44.400 What are the responsibilities of DOD, GSA, and State agencies in the Service Educational Activity (SEA) donation program?
§ 101–44.401 How is property for SEAs allocated and distributed?
§ 101–44.402 May SEAs acquire non-DOD property?
§ 101–44.403 What if a provision in this subpart conflicts with another provision in Part 101–44?

### § 101–44.400 What are the responsibilities of DOD, GSA, and State agencies in the Service Educational Activity (SEA) donation program?

(a) *Department of Defense.* The Secretary of Defense is responsible for:

(1) Determining the types of surplus personal property under DOD control that are usable and necessary for SEAs.

(2) Setting eligibility requirements for SEAs and making eligibility determinations.

(3) Providing surplus personal property under the control of DOD for transfer by GSA to State agencies for distribution to SEAs.

(b) *General Services Administration.* The Administrator of General Services is responsible for transferring surplus personal property designated by DOD to State agencies for donation to eligible SEAs.

(c) *State agencies.* State agency directors are responsible for:

(1) Verifying that an activity seeking to obtain surplus DOD personal property is an SEA designated as eligible by DOD to receive surplus personal property.

(2) Locating, screening, and acquiring from GSA surplus DOD personal property usable and necessary for SEA purposes.

(3) Distributing surplus DOD property fairly and equitably among SEAs and other eligible donees in accordance with established criteria.

(4) Keeping a complete and accurate record of all DOD property distributed to SEAs and furnishing GSA this information as required in § 101–44.4701(e).

(5) Monitoring compliance by SEA donees with the conditions specified in § 101–44.208 (except § § 101–44.208(a)(3) and (4), which do not apply to donations of surplus DOD personal property to SEAs).

### § 101–44.401 How is property for SEAs allocated and distributed?

(a) *Allocations.* GSA will make allocations in accordance with subpart 101–44.2, unless DOD requests that property be allocated through a State agency for donation to a specific SEA. Those requests will be honored unless a request is received from an applicant with a higher priority.

(b) *Distributions.* State agencies must observe all the provisions of § 101–44.208, except § § 101–44.208(a)(3) and (4), when distributing surplus DOD personal property to eligible SEAs.

### § 101–44.402 May SEAs acquire non-DOD property?

Generally no. Surplus property generated by Federal civil agencies is not eligible for donation to SEAs, unless the SEAs also qualify under § 101–44.207 to receive donations of surplus personal property.

### § 101–44.403 What if a provision in this subpart conflicts with another provision in Part 101–44?

The provisions of this subpart shall prevail.

Dated: August 3, 1998.

**G. Martin Wagner,**

*Associate Administrator for Governmentwide Policy.*

[FR Doc. 98–21132 Filed 8–6–98; 8:45 am]

BILLING CODE 6820–24–P

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## FEDERAL EMERGENCY MANAGEMENT AGENCY

## 44 CFR Part 67

**[Docket No. FEMA–7259]**

## Proposed Flood Elevation Determinations

**AGENCY:** Federal Emergency Management Agency, FEMA.

**ACTION:** Proposed rule.

**SUMMARY:** Technical information or comments are requested on the proposed base (1% annual chance) flood elevations and proposed base flood elevation modifications for the communities listed below. The base flood elevations are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**DATES:** The comment period is ninety (90) days following the second publication of this proposed rule in a

newspaper of local circulation in each community.

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

**FOR FURTHER INFORMATION CONTACT:** Matthew B. Miller, P.E., Chief, Hazards Study Branch, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646–3461.

**SUPPLEMENTARY INFORMATION:** The Federal Emergency Management Agency (FEMA or Agency) proposes to make determinations of base flood elevations and modified base flood elevations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed base flood and modified base flood elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

### National Environmental Policy Act

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

### Regulatory Flexibility Act

The Associate Director, Mitigation Directorate, certifies that this proposed rule is exempt from the requirements of the Regulatory Flexibility Act because proposed or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the National Flood Insurance Program. As a result, a regulatory flexibility analysis has not been prepared.

### Regulatory Classification

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

### Executive Order 12612, Federalism

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

### Executive Order 12778, Civil Justice Reform

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

### List of Subjects in 44 CFR Part 67

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

Accordingly, 44 CFR part 67 is proposed to be amended as follows:

## PART 67—[AMENDED]

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

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

### § 67.4 [Amended]

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

| State | City/town/county | Source of flooding | Location | #Depth in feet above ground. *Elevation in feet (NGVD) | |
|---|---|---|---|---|---|
| | | | | Existing | Modified |
| Alabama | Decatur (City), Morgan County. | Blue Hole Branch | Approximately 400 feet downstream of Tomahawk Drive. | None | *569 |
| | | | Approximately 1,400 feet upstream of Tomahawk Drive. | None | *572 |
| | | Brush Creek | Approximately 1.27 miles above confluence with Flint Creek. | *562 | *561 |
| | | | Approximately 960 feet upstream of Royal Drive. | *569 | *567 |
| | | Clark Spring Branch | At the confluence with Brush Creek | *568 | *566 |
| | | | Approximately 1,450 feet upstream of Montrose Drive SW. | None | *627 |
| | | Bakers Creek | At confluence with Tennessee River | None | *558 |
| | | | Approximately .27 mile downstream of West Morgan Road. | None | *617 |
| | | Tributary to Bakers Creek | Approximately 900 feet upstream of confluence with Bakers Creek. | *594 | *598 |
| | | | Approximately 1,460 feet upstream of Gaslight Place. | None | *609 |
| | | Dry Branch | At upstream side of U.S. Highway 22 | *561 | *559 |
| | | | Approximately 900 feet upstream of Runnymead Avenue SW. | None | *605 |
| | | Black Branch | At the confluence with the Tennessee River. | None | *561 |
| | | | Approximately 950 feet upstream of Regency Boulevard. | None | *567 |
| | | Betty Rye Branch | At confluence with Tennessee River | None | *559 |
| | | | Approximately 150 feet upstream of Bedford Drive SW. | None | *609 |
| | | Tenessee River | Approximately 4.5 miles downstream of confluence of Bakers Creek. | None | *557 |

| State | City/town/county | Source of flooding | Location | #Depth in feet above ground. *Elevation in feet (NGVD) | |
|---|---|---|---|---|---|
| | | | | Existing | Modified |
| | | | Approximately 200 feet upstream of Interstate Route 65. | None | *562 |
| Maps available for inspection at the City of Decatur Building Department-4th Floor, 402 Lee Street NE, Decatur, Alabama. | | | | | |
| Send comments to The Honorable Julian Price, Mayor of the City of Decatur, P.O. Box 488, Decatur, Alabama 35602. | | | | | |
| Alabama | Morgan County (Unincorporated Areas). | Blue Hole Branch | Approximately 1,900 feet upstream of the confluence with Flint Creek. | None | *567 |
| | | | Approximately 400 feet downstream of Tomahawk Drive. | None | *569 |
| | | Bakers Creek | Approximately 700 feet downstream of U.S. Highway 72/Joe Wheeler Highway/State Route 20. | *565 | *567 |
| | | | Approximately 100 feet downstream of West Morgan Road. | None | *620 |
| | | Tributary to Bakers Creek | At the confluence with Bakers Creek | *594 | *598 |
| | | | Approximately 175 feet upstream of Old Moulton Road. | None | *605 |
| | | Dry Branch | At confluence with the Tennessee River | None | *559 |
| | | | Approximately 400 feet downstream of U.S. Highway 72. | None | *559 |
| | | Betty Rye Branch | At confluence with Tennessee River | None | *559 |
| | | | Approximately 600 feet upstream of Moulton Street West. | *575 | *573 |
| | | Tennessee River | At downstream county boundary | None | *557 |
| | | | Approximately 7 miles downstream of U.S. Route 231. | None | *572 |
| | | Unnamed Tributary to Unnamed No. 3 to Shoal Creek. | Approximately 125 feet downstream of Roan Road. | None | *660 |
| | | | At upstream side of Private Drive | None | *662 |
| Maps available for inspection at the Morgan County Courthouse, 302 Lee Street NE, Decatur, Alabama. | | | | | |
| Send comments to Mr. Larry Bennich, Chairman of the Morgan County Board of Commissioners, P.O. Box 668, Decatur, Alabama 35602. | | | | | |
| Illinois | Alsip (Village), Cook County. | Tinley Creek | Shallow flooding approximately 450 feet west of the intersection of State Route 83 (Calumet Sag Road) and 127th Street. | None | *600 |
| | | | At intersection of Central Avenue and 127th Street. | None | *602 |
| | | Merrionette Park Ditch | Approximately 50 feet upstream of 123rd Street. | None | *595 |
| | | | Approximately 0.4 mile upstream of 123rd Street. | None | *596 |
| Maps available for inspection at the Alsip Building Department, 4500 West 123rd Street, Alsip, Illinois. | | | | | |
| Send comments to The Honorable Arnold Andrews, Mayor of the Village of Alsip, 4500 West 123rd Street, Alsip, Illinois 60803. | | | | | |
| Illinois | Bedford Park (Village), Cook County. | Des Plaines River | Approximately 1,000 feet downstream of Interstate 55. | None | *598 |
| | | | Approximately 1.6 miles upstream of Interstate Route 55. | None | *599 |
| | | 71st Street Ditch | Approximately 400 feet downstream of the intersection of 71st Street and Blackstone Avenue. | None | *590 |
| | | | Approximately 350 feet upstream of the intersection of 71st Street and 86th Avenue. | None | *592 |
| Maps available for inspection at the Bedford Park Village Office, 6701 South Archer Road, Bedford Park, Illinois. | | | | | |
| Send comments to Mr. Constantine Toulios, Bedford Park Village President, 6701 South Archer Road, P.O. Box 128, Bedford Park, Illinois 60501. | | | | | |
| Illinois | Blue Island (City), Cook County. | Midlothian Creek | Approximately 800 feet upstream of the confluence with Little Calumet River. | *591 | *590 |
| | | | Approximately 1,000 feet upstream of Missouri-Kansas-Texas Railroad. | *597 | *596 |
| | | Stony Creek (East) | Upstream side of Burr-Oak Avenue | None | *583 |
| | | | At Central Park Avenue | *584 | *585 |

| State | City/town/county | Source of flooding | Location | #Depth in feet above ground. *Elevation in feet (NGVD) | |
|---|---|---|---|---|---|
| | | | | Existing | Modified |
| Maps available for inspection at the Blue Island City Building Department, 13051 South Greenwood Avenue, Blue Island, Illinois. | | | | | |
| Send comments to The Honorable Donald P. Peloquin, Mayor of the City of Blue Island, 13051 South Greenwood Avenue, Blue Island, Illinois 60406. | | | | | |
| Illinois | Bridgeview (Village), Cook County. | Lucas Ditch Cutoff | Approximately 70 feet upstream of 103rd Street. | *594 | *595 |
| | | | Approximately 1,400 feet upstream of 103rd Street. | *594 | *595 |
| | | Lucas Ditch Cutoff Tributary (Backwater from Lucas Ditch Cutoff). | For entire length within the community | *594 | *595 |
| Maps available for inspection at the Bridgeview Village Engineering Department, 7100 South Thomas, Bridgeview, Illinois. | | | | | |
| Send comments to Mr. John A. Oremus, Bridgeview Village President, 7500 South Oketo Avenue, Bridgeview, Illinois 60455. | | | | | |
| Illinois | Broadview (Village), Cook County. | Salt Creek | Approximately 1,350 feet upstream of confluence of Addison Creek. | None | *620 |
| | | | At upstream corporate limits | None | *622 |
| Maps available for inspection at the Broadview Village Building Department, 2350 South 25th Avenue, Broadview, Illinois. | | | | | |
| Send comments to The Honorable John R. Rogers, Mayor of the Village of Broadview, 2350 South 25th Avenue, Broadview, Illinois 60153. | | | | | |
| Illinois | Brookfield (Village), Cook County. | Des Plaines River | Approximately 0.53 mile downstream of Burlington Northern Railroad. | None | *613 |
| | | | Approximately 0.24 mile downstream of 26th Street. | None | *617 |
| Maps available for inspection at the Brookfield Village Hall, 8820 Brookfield Avenue, Brookfield, Illinois. | | | | | |
| Send comments to Mr. Thomas A. Sequens, Brookfield Village President, 8820 Brookfield Avenue, Brookfield, Illinois 60513. | | | | | |
| Illinois | Burnham (Village), Cook County. | Grand Calumet | At Burnham Avenue | None | *581 |
| | | River | Approximately 600 feet upstream of CSX Transportation. | None | *581 |
| Maps available for inspection at the Burnham Village Clerk's Office, 14450 Manistee Avenue, Burnham, Illinois. | | | | | |
| Send comments to Mr. Donald J. Danewicz, President of the Village of Burnham, 14450 Manistee Avenue, Burnham, Illinois 60633. | | | | | |
| Illinois | Chicago (City), Cook County. | Lake Michigan | Entire shoreline within community | None | *585 |
| | | Grand Calumet River | Just upstream of South Torrence Avenue | None | *581 |
| | | | Just downstream of East 138 Street | None | *581 |
| | | Crystal Creek | Approximately 405 feet downstream of Mannheim Road. | None | *639 |
| | | | Approximately 1,000 feet upstream of Lawrence Avenue. | None | *639 |
| | | Willow Creek | Approximately 250 feet southwest of Thorndale Avenue/Scott Street intersection. | None | *632 |
| | | | Approximately 700 feet upstream of Wolf Road. | None | *646 |
| | | Silver Creek | At downstream corporate limit | None | *652 |
| | | | At Irving Park Road | None | *652 |
| | | Industrial Tributary | At intersection of Irving Park Road and Lawrence Avenue. | None | *643 |
| | | Des Plaines River | Upstream side of Belmont Avenue | *624 | *627 |
| | | | Approximately 120 feet upstream of West Higgins Road. | None | *629 |
| Maps available for inspection at the City of Chicago Department of Environment, 30 North LaSalle Street, 25th Floor, Chicago, Illinois. | | | | | |
| Send comments to The Honorable Richard M. Daley, Mayor of the City of Chicago, Chicago City Hall, Room 500, 121 North LaSalle Street, Chicago, Illinois 60602. | | | | | |
| Illinois | Chicago Heights (City), Cook County. | Third Creek | Approximately 0.6 mile downstream of Joe Orr Road. | *626 | *627 |
| | | | Approximately 900 feet downstream of Joe Orr Road. | *630 | *629 |
| | | Butterfield Creek | Approximately 900 feet downstream of Riegel Road. | None | *628 |
| | | | Approximately 0.45 mile downstream of Dixie Highway. | None | *635 |

| State | City/town/county | Source of flooding | Location | #Depth in feet above ground. *Elevation in feet (NGVD) | |
|---|---|---|---|---|---|
| | | | | Existing | Modified |
| | | Thorn Creek | Approximately 0.5 mile downstream of Joe Orr Road. | *624 | *625 |
| | | | Approximately 250 feet downstream of Joe Orr Road. | *629 | *630 |
| Maps available for inspection at the Chicago Heights Municipal Building, 1601 Chicago Road, Chicago, Illinois. | | | | | |
| Send comments to The Honorable Angelo Ciambrone, Mayor of the City of Chicago Heights, 1601 Chicago Road, Chicago Heights, Illinois 60411. | | | | | |
| Illinois | Cook County (Unincorporated Areas). | Merrionette Park Ditch | Upstream side of 123rd Street | None | *594 |
| | | | Approximately 0.4 mile upstream of 123rd Street. | None | *596 |
| | | Crestwood | Upstream side of 131st Street | None | *596 |
| | | Drainage Ditch West | Approximately 1,700 feet downstream of 135th Street. | None | *602 |
| | | Butterfield Creek | Approximately 75 feet upstream of Chicago Road (Riegel Road). | *630 | *632 |
| | | | Approximately 0.25 mile upstream of CONRAIL. | None | *707 |
| | | Butterfield Creek East Branch. | Approximately 1,125 feet upstream of Elgin, Joliet and Eastern Railway. | None | *704 |
| | | | Approximately 1,000 feet upstream of Polk Avenue. | None | *736 |
| | | Butterfield Creek | Upstream side of Imperial Drive | None | *730 |
| | | East Branch Tributary | Approximately 100 feet downstream of Lake Shore Drive. | None | *730 |
| | | North Creek | At Glynwood Lansing Road | None | *614 |
| | | Tributary A | At Burnham Avenue | None | *616 |
| | | Lansing Ditch | Approximately 1,350 feet upstream of confluence of North Creek Tributary A. | None | *617 |
| | | | Approximately 1,850 feet upstream of confluence of North Creek Tributary A. | None | *617 |
| | | Calumet Sag Channel | Approximately 50 feet upstream of Midlothian Turnpike. | None | *621 |
| | | Tributary C | Approximately 0.38 mile upstream of Midlothian Turnpike. | None | *627 |
| | | Calumet Union Drainage Ditch. | Approximately 1,300 feet upstream of Vincenne's Road. | None | *602 |
| | | | At Rockwell Street | None | *610 |
| | | Dixie Creek | Approximately 100 feet downstream of Interstate Route 294. | None | *607 |
| | | | Approximately 1,300 feet upstream of Interstate Route 294. | None | *607 |
| | | Little Calumet River | At confluence with Calumet Sag Channel | None | *588 |
| | | | Approximately 350 feet downstream of Torrence Avenue. | None | *599 |
| | | Silver Creek | Approximately 250 feet downstream of 9th Avenue. | None | *624 |
| | | | Approximately 350 feet downstream of Irving Park Road. | None | *651 |
| | | Willow Creek | Approximately 100 feet upstream of Lee Street. | None | *643 |
| | | | Approximately 1,400 feet downstream of Wolf Road. | None | *645 |
| | | Salt Creek | Approximately 650 feet downstream of 26th Street. | None | *620 |
| | | | Approximately 0.8 mile downstream of John F. Kennedy Boulevard. | None | *683 |
| | | Chicago River, North Branch, Middle Fork. | At confluence with Chicago River, North Branch and Skokie River. | None | *624 |
| | | | At Lake-Cook Road | None | *651 |
| | | Underwriters Tributary | At confluence with Chicago River, North Branch, West Fork. | None | *649 |
| | | | Approximately 1,250 feet upstream of confluence with Chicago River, North Branch, West Fork. | None | *652 |
| | | McDonald Creek | Approximately 200 feet downstream of Des Plaines River Road. | *635 | *638 |

| State | City/town/county | Source of flooding | Location | #Depth in feet above ground. *Elevation in feet (NGVD) | |
|---|---|---|---|---|---|
| | | | | Existing | Modified |
| | | | Approximately 100 feet downstream of Foundary Lane. | *636 | *638 |
| | | 63rd Street Ditch | Approximately 50 feet upstream of confluence with Flag Creek. | None | *640 |
| | | | Approximately 300 feet upstream of confluence with Flag Creek. | None | *640 |
| | | Filsen Park Ditch | Approximately 20 feet upstream of confluence with 76th Avenue Ditch. | None | *696 |
| | | | At Harlem Avenue | None | *696 |
| | | Tinley Park Reservoir (Shallow Flooding Area). | Approximately 650 feet west of intersection of Oleander Avenue and 167th Street. | None | #2 |
| | | Tinley Park Reservoir (Ponding Area). | Approximately 900 feet west of intersection of Oleander Avenue and 167th Street. | None | *694 |
| | | | At intersection of 180th Street and 70th Avenue. | None | *695 |
| | | Addison Creek | Approximately 775 feet upstream of Cemetery Access Road. | None | *649 |
| | | | Approximately 220 feet downstream of Chicago and Northwestern Railroad. | None | *651 |
| | | Boca Rio Ditch | Approximately 0.32 mile downstream of 151st Street. | None | *664 |
| | | | Just downstream of 151st Street | None | *670 |
| | | Calumet Union Drainage Ditch, Southwest Branch. | Approximately 0.81 mile downstream of 167th Street. | *610 | *609 |
| | | | Approximately 0.70 mile downstream of 167th Street. | None | *609 |
| | | Chicago River, North Branch. | Approximately 50 feet downstream of Golf Road. | *622 | *620 |
| | | | At the confluence of the Skokie River and Chicago River, North Branch Middle Fork. | None | *624 |
| | | Skokie River | At the confluence with Chicago River, North Branch. | None | *624 |
| | | | Approximately 250 feet upstream of Dundee Road. | None | *627 |
| | | Chicago River, North Branch, West Fork. | Approximately 175 feet upstream of Techny Road. | *635 | *636 |
| | | | Approximately 250 feet upstream of Interstate 94. | None | *651 |
| | | Des Plaines River | Approximately 7.2 miles downstream of Wentworth Avenue. | None | *594 |
| | | | Upstream county boundary | None | *644 |
| | | Lansing Ditch | At Katz Corner Road | None | *636 |
| | | East Tributary | Approximately 1,500 feet upstream of Katz Corner Road. | None | *639 |
| | | Long Run | Approximately 900 feet downstream of State Route 171 (Archer Avenue). | None | *644 |
| | | | Approximately 2,350 feet upstream of the confluence of Long Run Tributary B. | None | *653 |
| | | Lord's Park Tributary | Approximately 80 feet downstream of Lake Street. | None | *721 |
| | | | Approximately 100 feet upstream of Lake Street. | None | *724 |
| | | Midlothian Creek | Approximately 0.33 mile downstream of Waverly Avenue. | *623 | *622 |
| | | | Approximately 1,250 feet downstream of 84th Avenue. | None | *697 |
| | | Midlothian Creek | Just upstream of 84th Avenue | None | *702 |
| | | Western Tributary | Approximately 1,200 feet upstream of 84th Avenue. | None | *702 |
| | | Feehanville Ditch | At confluence with Des Plaines River | None | *637 |
| | | | Approximately 1,725 feet upstream of the confluence with the Des Plaines River. | None | *637 |
| | | Farmer's Creek | Approximately 375 feet downstream of Rand Road. | None | *633 |
| | | | At Emerson Street | None | *635 |

| State | City/town/county | Source of flooding | Location | #Depth in feet above ground. *Elevation in feet (NGVD) | |
|---|---|---|---|---|---|
| | | | | Existing | Modified |
| | | Flint Creek Tributary | Approximately 750 feet upstream of Lake-Cook Road. | None | *830 |
| | | | Approximately 1,900 feet upstream of Lake-Cook Road. | None | *833 |
| | | Mill Creek | Approximately 1,500 feet upstream of 123rd Street. | None | *653 |
| | | | Approximately 900 feet downstream of Firestone Drive. | None | *678 |
| | | Natalie Creek | Approximately 250 feet upstream of 149th Street. | None | *636 |
| | | | At Cicero Avenue | None | *637 |
| | | Lake Michigan | For its entire shoreline within the community. | None | *585 |
| | | Butterfield Creek Ponding Area. | Approximately 300 feet northeast of intersection of Kostner Avenue and 205th Street. | None | *692 |
| | | Ponding Area | At intersection of 178th Street and 70th Avenue. | None | *695 |
| | | Plainfield Road Ditch | Approximately 100 feet upstream of confluence with Flag Creek. | None | *638 |
| | | | Approximately 280 feet upstream of confluence with Flag Creek. | None | *638 |
| | | Poplar Creek East Branch | Approximately 0.7 mile west of Barrington Road/Northwest Tollway intersection. | None | *790 |
| | | Techny Drain | Approximately 250 feet upstream of confluence with Chicago River, North Branch, West Fork. | *635 | *636 |
| | | | Approximately 0.5 mile upstream of confluence with Chicago River, North Branch, West Fork. | None | *640 |
| | | Thorn Creek | Approximately 2,200 feet downstream of Volbrecht Road. | None | *600 |
| | | | Approximately 300 feet downstream of Margaret Street. | None | *604 |
| | | Wheeling Drainage Ditch | At intersection of Kerry Lane and Wolf Avenue. | None | *642 |
| | | Union Drainage Ditch | Approximately 150 feet upstream of Oak Park Avenue. | None | *694 |
| | | | Approximately 1,200 feet upstream of Oak Park Avenue. | None | *694 |
| | | Wheeling Drainage Ditch | Approximately 1,350 feet upstream of confluence with Des Plaines River. | *639 | *641 |
| | | | At intersection of Kerry Lane and Wolf Avenue. | None | *642 |
| | | Willow Creek Ponding Area. | Approximately 1,100 feet southwest of Lee Street/Touhy Avenue intersection. | None | *642 |
| | | Tinley Creek | Approximately 200 feet west of intersection of Alpine Drive and 127th Street. | None | *600 |
| | | | Approximately 600 feet south of intersection of South Manor Avenue and 127th Street. | None | *604 |
| | | Stony Creek (West) | Approximately 1,950 feet downstream of 107th Street. | None | *589 |
| | | | At Harlem Avenue | None | *591 |
| | | Long Run, Tributary B | Approximately 430 feet upstream of confluence with Long Run. | *649 | *650 |
| | | | Approximately 1,550 feet upstream of confluence with Long Run. | *649 | *650 |
| | | Mill Creek West Branch | Approximately 300 feet upstream of Hobart Avenue. | None | *667 |
| | | | Approximately 50 feet upstream of the most upstream crossing of 123rd Street. | None | *668 |
| | | Shallow Flooding Area | Approximately 300 feet east of the intersection of 131st Street and Harlem Avenue. | None | #1 |
| | | 76th Avenue Ditch | Approximately 250 feet south of 167th Street. | None | *696 |
| | | | Just downstream of 76th Avenue | None | *696 |

| State | City/town/county | Source of flooding | Location | #Depth in feet above ground. *Elevation in feet (NGVD) | |
|---|---|---|---|---|---|
| | | | | Existing | Modified |
| Maps available for inspection at the Cook County Building and Zoning Department, 69 West Washington, Suite 2830, Chicago, Illinois. | | | | | |
| Send comments to Mr. John A. Stroger, Jr., President of the Cook County Board of Commissioners, 118 North Clark, 5th Floor, Chicago, Illinois 60602. | | | | | |
| Illinois | Crestwood (Village), Cook County. | Calumet Sag | At Midlothian Turnpike | None | *621 |
| | | Channel Tributary C | Approximately 0.35 mile upstream of Midlothian Turnpike. | None | *627 |
| | | Crestwood Drainage Ditch | Just upstream of Calumet Sag Road (State Route 83). | None | *594 |
| | | West | Approximately 500 feet southwest of intersection of Rivercrest Drive and Cicero Avenue. | None | *596 |
| | | Tinley Creek (Upstream entry). | Approximately 400 feet west of intersection of Central Avenue and 131st Street. | None | *611 |
| | | Tinley Creek (Downstream entry). | Approximately 500 feet west of intersection of Alpine Drive and 127th Street. | None | *600 |
| Maps available for inspection at the Crestwood Village Clerk's Office, 13840 South Cicero Avenue, Crestwood, Illinois. | | | | | |
| Send comments to The Honorable Chester Stranczek, Mayor of the Village of Crestwood, 13840 South Cicero Avenue, Crestwood, Illinois 60445. | | | | | |
| Illinois | Deerfield (Village), Cook County. | Chicago River, North Branch, West Fork. | Approximately 100 feet upstream of Interstate 94. | *652 | *651 |
| | | | At Lake-Cook Road | 653 | *656 |
| | | USACE Reservoir 29A | Approximately 300 feet northwest of intersection of Edens Expressway and Pfingsten Road. | *None | *656 |
| Maps available for inspection at the Deerfield Village Hall, 850 Waukegan Road, Deerfield, Illinois. | | | | | |
| Send comments to The Honorable Bernard Forrest, Mayor of the Village of Deerfield, 850 Waukegan Road, Deerfield, Illinois 60015. | | | | | |
| Illinois | Des Plaines (City), Cook County. | Feehanville Ditch | At confluence with Des Plaines River | None | *637 |
| | | | Approximately 1,725 feet upstream of the confluence with Des Plaines River. | None | *637 |
| | | Farmer's Creek | At confluence with Des Plaines River | *630 | *633 |
| | | | Approximately 350 feet upstream of U.S. Route 14. | *632 | *633 |
| | | Wheeling Creek Ponding Area. | At intersection of Pratt Avenue and Alger Street. | *641 | *642 |
| | | Des Plaines River | Approximately 50 feet upstream of Tri-State Tollway. | *628 | *631 |
| | | | Approximately 50 feet upstream of confluence of Feehanville Ditch. | *635 | *637 |
| Maps available for inspection at the Des Plaines City Hall, Engineering Department, 1420 Miner/Northwest Highway, 5th Floor, Des Plaines, Illinois. | | | | | |
| Send comments to The Honorable Paul W. Jung, Mayor of the City of Des Plaines, 1420 Miner/Northwest Highway, Des Plaines, Illinois 60016. | | | | | |
| Illinois | Dixmoor (Village), Cook County. | Shallow Flooding Area | Ponding area south of Grand Trunk and Western Railway. | #2 | *603 |
| | | | East of Dixie Highway and north of Sibley Boulevard. | #2 | *603 |
| Maps available for inspection at the Dixmoor Village Hall, 170 West 145th Street, Dixmoor, Illinois. | | | | | |
| Send comments to Mr. Erick Nickerson, Dixmoor Village President, 170 West 145th Street, Dixmoor, Illinois 60426. | | | | | |
| Illinois | Elmwood Park (Village), Cook County. | Golf Course Tributary | Approximately 3,160 feet downstream of Fullerton Avenue. | *624 | *625 |
| | | | Approximately 2,160 feet downstream of Fullerton Avenue. | *624 | *625 |
| | | Des Plaines River | Upstream side of North Avenue | *622 | *625 |
| | | | Approximately 0.15 mile upstream of North Avenue. | *622 | *625 |
| Maps available for inspection at the Elmwood Park Village Hall, 11 Conti Parkway, Elmwood Park, Illinois. | | | | | |
| Send comments to Mr. Peter N. Silvestri, Elmwood Park Village President, 11 Conti Parkway, Elmwood Park, Illinois 60707. | | | | | |
| Illinois | Evanston (City), Cook County. | Lake Michigan | Entire shoreline affecting community | None | *585 |

| State | City/town/county | Source of flooding | Location | #Depth in feet above ground. *Elevation in feet (NGVD) | |
|---|---|---|---|---|---|
| | | | | Existing | Modified |
| Maps available for inspection at the City of Evanston's Engineer's Office, 2100 Ridge Avenue, Evanston, Illinois. | | | | | |
| Send comments to The Honorable Lorraine Morton, Mayor of the City of Evanston, 2100 Ridge Avenue, Evanston, Illinois 60201. | | | | | |
| Illinois | Forest Park (Village), Cook County. | Des Plaines River | Approximately 0.66 mile upstream of Cermak Road. | None | *619 |
| | | | Downstream side of Madison Street | None | *622 |
| Maps available for inspection at the Forest Park Village Hall, 517 Des Plaines Avenue, Forest Park, Illinois. | | | | | |
| Send comments to The Honorable Lorraine Popelka, Mayor of the Village of Forest Park, 517 Des Plaines Avenue, Forest Park, Illinois 60130. | | | | | |
| Illinois | Franklin Park (Village), Cook County. | Crystal Creek Tributary | Approximately 85 feet downstream of Panoramic Drive. | None | *643 |
| | | | Approximately 480 feet upstream of Mannheim Road. | None | *645 |
| | | Sexton Ditch | Approximately 1,450 feet upstream of confluence with Crystal Creek Tributary. | None | *643 |
| | | | Approximately 1,830 feet upstream of confluence with Crystal Creek Tributary. | None | *643 |
| | | Des Plaines River | Just upstream of Belmont Avenue | *623 | *627 |
| | | | Approximately 500 feet downstream of Irving Park Road. | None | *628 |
| Maps available for inspection at the Franklin Park Village President's Office, 9500 Belmont Avenue, Franklin Park, Illinois. | | | | | |
| Send comments to Mr. Daniel B. Pritchett, Village of Franklin Park President, 9500 Belmont Avenue, Franklin Park, Illinois 60131. | | | | | |
| Illinois | Glenview (Village), Cook County. | Chicago River, North Branch, Middle Fork. | At the confluence with the Skokie River and Chicago River, North Branch. | None | *624 |
| | | | Approximately 0.26 mile downstream of Winnetka Road. | None | *624 |
| Maps available for inspection at the Glenview Village Engineering Department, 1225 Waukegan Road, Glenview, Illinois. | | | | | |
| Send comments to Ms. Nancy Firfer, Glenview Village President, 1225 Waukegan Road, Glenview, Illinois 60025–3071. | | | | | |
| Illinois | Glenwood (Village), Cook County. | Butterfield Creek | Approximately 300 feet upstream of Chicago Heights Glenwood Road. | *615 | *616 |
| | | | Downstream side of Halsted Street | *618 | *620 |
| Maps available for inspection at the Glenwood Village Building Department, 13 South Rebecca Street, Glenwood, Illinois. | | | | | |
| Send comments to The Honorable William J. Asselborn, Jr., Mayor of the Village of Glenwood, 13 South Rebecca Street, Glenwood, Illinois 60425. | | | | | |
| Illinois | Golf (Village), Cook County. | Chicago River, North Branch, West Fork. | Approximately 50 feet downstream of Gold Road. | *623 | *620 |
| | | | Approximately 0.77 mile upstream of Golf Road. | *623 | *621 |
| Maps available for inspection at the Golf Village Hall, One Briar Road, Golf, Illinois. | | | | | |
| Send comments to Mr. James W. Hunt, Golf Village President, P.O. Box 231, Golf, Illinois 60029. | | | | | |
| Illinois | Harvey (City), Cook County. | Dixie Creek | At ponding area south of Grand Trunk and Western Railway. | *604 | *603 |
| | | Shallow Flooding Area | East of Dixie Highway and north of 154th Street. | *605 | *603 |
| | | Calumet Union Drainage Ditch. | Approximately 250 feet upstream of Vincennes Road. | *600 | *559 |
| | | | Approximately 200 feet downstream of Park Avenue. | *607 | *606 |
| | | Belaire Creek | Approximately 0.22 mile downstream of Interstate 294. | None | *607 |
| | | | Approximately 425 feet downstream of Interstate 294. | None | *607 |
| Maps available for inspection at the City of Harvey Planning and Development Department, 15320 Broadway, Harvey, Illinois. | | | | | |
| Send comments to The Honorable N. Graves, Mayor of the City of Harvey, 15320 Broadway, Harvey, Illinois 60426. | | | | | |
| Illinois | Hazel Crest (Village), Cook County. | Cherry Creek East Branch | Approximately 80 feet upstream of 175th Street. | *636 | *635 |
| | | | Approximately 430 feet upstream of Governors Highway. | *639 | *640 |

| State | City/town/county | Source of flooding | Location | #Depth in feet above ground. *Elevation in feet (NGVD) | |
|---|---|---|---|---|---|
| | | | | Existing | Modified |
| Maps available for inspection at the Village of Hazel Crest Public Works Department, 3000 West 170th Place, Hazel Crest, Illinois. Send comments to Mr. Robert L. Palmer, Hazel Crest Village Manager, 3000 West 170th Place, Hazel Crest, Illinois 60429. | | | | | |
| Illinois | Hillside (Village), Cook County. | Addison Creek | ManheimRoad | None | *627 |
| | | | Approximately 550 feet west of Manheim Road. | None | *627 |
| Maps available for inspection at the Hillside Village Hall, 30 North Wolf Road, Hillside, Illinois. Send comment to Mr. Joseph T. Tamburino, Hillside Village President, 30 North Wolf Road, Hillside, Illinois 60162. | | | | | |
| Illinois | Hodgkins (Village), Cook County. | Des Plaines River | Approximately 100 feet downstream of Tri-State Tollway. | None | *597 |
| | | | Approximately 800 feet upstream of Tri-State Tollway. | None | *598 |
| Maps available for inspection at the Hodgkins Village Hall, 8990 Lyons Avenue, Hodgkins, Illinois. Send comments to Mr. Noel B. Cummings, Hodgkins Village President, 8990 Lyons Avenue, Hodgkins, Illinois 60525. | | | | | |
| Illinois | Homewood (Village), Cook County. | Butterfield Creek | Approximately 500 feet downstream of Halsted Street. | *620 | *619 |
| | | | Approximately 50 feet upstream of Riegel Road. | *630 | *632 |
| Maps available for inspection at the Village of Homewood Public Works Department, 17755 South Ashland Avenue, Homewood, Illinois. Send comments to Mr. Ray Gosack, Homewood Village Manager, 2020 Chestnut Road, Homewood, Illinois 60430. | | | | | |
| Illinois | Indian Head (Village), Cook County. | Plainfield Road Ditch | Approximately 70 feet upstream of confluence with Flag Creek. | None | *638 |
| Maps available for inspection at the Village of Indian Head Park Municipal Facility, 201 Acadia Drive, Indian Head Park, Illinois. Send comments to Mr. Edward Jaekey, Indian Head Park Village President, 201 Acacia Drive, Indian Head Park, Illinois 60525. | | | | | |
| Illinois | Justice (Village), Cook County. | 71st Street Ditch | Approximately 25 feet upstream of confluence with Chicago Sanitary Drainage and Ship Canal. | *582 | *581 |
| | | | Approximately 230 feet upstream of 86th Avenue. | *594 | *592 |
| Maps available for inspection at the Justice Village Engineer's Office, 87th and Roberts Road, Justice, Illinois. Send comments to Mr. Melvin Van Allen, Jr., Justice Village President, 7800 South Archer Road, Justice, Illinois 60458. | | | | | |
| Illinois | Kenilworth (Village), Cook County. | Lake Michigan | Entire shoreline affecting community | None | *585 |
| Maps available for inspection at the Kenilworth Village Hall, 419 Richmond Road, Kenilworth, Illinois. Send comments to Mr. James R. McClamrock, Kenilworth Village President, 419 Richmond Road, Kenilworth, Illinois 60043. | | | | | |
| Illinois | La Grange (Village), Cook County. | Des Plaines River Tributary A. | Approximately 800 feet downstream of 55th Street. | None | *665 |
| | | | Approximately 300 feet downstream of 55th Street. | None | *670 |
| Maps available for inspection at the La Grange Village Hall, 53 South La Grange Road, La Grange, Illinois. Send comments to Mr. Timothy Hansen, La Grange Village President, 53 South La Grange Road, La Grange, Illinois 60525. | | | | | |
| Illinois | La Grange Park (Village), Cook County. | Salt Creek | Approximately 900 feet downstream of Indiana Harbor Belt Railroad. | None | *621 |
| | | | Approximately 1,500 feet upstream of Indiana Harbor Belt Railroad. | None | *622 |
| Maps available for inspection at the La Grange Park Village Hall, Department of Building and Zoning, 447 North Catherine, La Grange Park, Illinois. Send comments to Mr. Raymond J. Pietrus, La Grange Park Village President, 447 North Catherine, La Grange Park, Illinois 60526–2099. | | | | | |
| Illinois | Lemont (Village), Cook County. | Des Plaines River | Approximately 7.3 miles downstream of Wentworth Avenue (at downstream corporate limit). | None | *594 |
| | | | Approximately 3.9 miles downstream of Wentworth Avenue. | None | *595 |

| State | City/town/county | Source of flooding | Location | #Depth in feet above ground. *Elevation in feet (NGVD) | |
|---|---|---|---|---|---|
| | | | | Existing | Modified |
| Maps available for inspection at the Village of Lemont Engineering Department, 418 Main Street, Lemont, Illinois. Send comments to The Honorable Richard Kwasneski, Mayor of the Village of Lemont, 418 Main Street, Lemont, Illinois 60439. | | | | | |
| Illinois | Lyons (Village), Cook County. | Des Plaines River | Just upstream of Hoffman Dam | *609 | *610 |
| | | | Approximately 0.92 mile upstream of Hoffman Dam. | *613 | *614 |
| Maps available for inspection at the Lyons Village Building Department, 7801 West Ogden Avenue, Lyons, Illinois. Send comments to The Honorable David Visk, Mayor of the Village of Lyons, 7801 West Ogden Avenue, Lyons, Illinois 60534. | | | | | |
| Illinois | Markham (City), Cook County. | Calumet Union | At Park Avenue (upstream side) | *608 | *606 |
| | | Drainage Ditch | Approximately 1,000 feet upstream of Central Park Avenue. | None | *623 |
| | | Calumet Union | Approximately 0.87 mile downstream of 187th Street. | *610 | *609 |
| | | Drainage Ditch, Southwest Branch. | Approximately 1,200 feet south of intersection of 167th Street and California Avenue. | None | *626 |
| Maps available for inspection at the Markham City Hall, 16313 South Kedzie Parkway, Markham, Illinois. Send comments to The Honorable Evans R. Miller, Mayor of the City of Markham, 16313 South Kedzie Parkway, Markham, Illinois 60426. | | | | | |
| Illinois | Matteson (Village), Cook County. | Butterfield Creek | Upstream side of Crawford Avenue | *684 | *685 |
| | | | Just upstream of Interstate 30 | None | *703 |
| | | Butterfield Creek | Upstream side of Lincoln Highway | *685 | *687 |
| | | East Branch | Approximately 950 feet upstream of Elgin Joliet & Eastern Railway. | *703 | *704 |
| | | Butterfield Creek | At confluence with Butterfield Creek East Branch. | *701 | *702 |
| | | East Branch Tributary | Approximately 100 feet upstream of Elgin Joliet & Eastern Railway. | *705 | *708 |
| Maps available for inspection at the Village of Matteson Planning Department, 3625 West 215th Street, Matteson, Illinois. Send comments to Mr. Mark W. Stricker, Matteson Village President, 3625 West 215th Street, Matteson, Illinois 60443. | | | | | |
| Illinois | Maywood (Village), Cook County. | Addison Creek | Approximately 200 feet southeast of intersection of I–290 and 25th Avenue. | None | *627 |
| | | Des Plaines River | Downstream side of Eisenhower Expressway. | *618 | *621 |
| | | | Approximately 1,800 feet upstream of Chicago Avenue. | *622 | *624 |
| | | Silver Creek | At confluence with the Des Plaines River | *621 | *624 |
| | | | Approximately 1,050 feet downstream of 5th Avenue. | *621 | *624 |
| Maps available for inspection at the Village of Maywood Public Works Building, Code Enforcement and Planning Department, 1 East Madison, Maywood, Illinois. Send comments to Mr. Joe Freelon, Village of Maywood President, 115 South Fifth Avenue, Maywood, Illinois 60153. | | | | | |
| Illinois | Melrose Park (Village), Cook County. | Des Plaines River | Approximately 0.41 mile downstream of Soo Line Railroad. | *621 | *624 |
| | | | Approximately 75 feet downstream of North Avenue. | *622 | *625 |
| | | Silver Creek | Approximately 1,250 feet downstream of 5th Avenue. | *621 | *624 |
| | | | Approximately 500 feet upstream of 9th Avenue. | *623 | *624 |
| | | Addison Creek | Approximately 200 feet east of Park View Drive and Edward Avenue. | None | *640 |
| Maps available for inspection at the Village of Melrose Park Building Department, 1000 North 25th Avenue, Melrose Park, Illinois. Send comments to The Honorable Ronald Serpico, Mayor of the Village of Melrose Park, 1000 North 25th Avenue, Melrose Park, Illinois. | | | | | |
| Illinois | Midlothian (Village), Cook County. | Natalie Creek | At Crawford Avenue | *615 | *613 |
| | | | Approximately 650 feet upstream of 149th Street. | None | *636 |
| | | Midlothian Creek | Approximately 200 feet downstream of Interstate Route 294. | *607 | *604 |

| State | City/town/county | Source of flooding | Location | #Depth in feet above ground. *Elevation in feet (NGVD) | |
|---|---|---|---|---|---|
| | | | | Existing | Modified |
| | | | Approximately 625 feet downstream of Kilbourne Avenue. | *628 | *626 |
| | | Natalie Creek | At confluence with Natalie Creek | None | *615 |
| | | Overland Flow | At Kenton Avenue | *630 | *631 |
| Maps available for inspection at the Midlothian Village Hall, 14801 Pulaski Road, Midlothian, Illinois. | | | | | |
| Send comments to Mr. Thomas J. Murawski, Midlothian Village President, 14801 Pulaski Road, Midlothian, Illinois 60445. | | | | | |
| Illinois | Morton Grove (Village), Cook County. | Chicago River North Branch. | Approximately 250 feet downstream of Oakton Street. | *619 | *618 |
| | | | Approximately 50 feet downstream of Golf Road. | *622 | *620 |
| | | Chicago River, North Branch, West Fork. | At confluence with Chicago River, North Branch. | *622 | *620 |
| | | | Approximately 50 feet downstream of Golf Road. | *622 | *620 |
| Maps available for inspection at the Village of Morton Grove Community Development Department, 6101 Capulina, Morton Grove, Illinois. | | | | | |
| Send comments to Mr. Daniel Scanlon, Village of Morton Grove President, 6101 Capulina Avenue, Morton Grove, Illinois 60053. | | | | | |
| Illinois | Mount Prospect (Village), Cook County. | McDonald Creek | Approximately 100 feet downstream of Foundary Lane. | *634 | *638 |
| | | | Approximately 1,950 feet upstream of Foundary Lane. | *637 | *638 |
| | | Feehanville Ditch | Approximately 400 feet upstream of Wolf Road. | None | *645 |
| | | | Approximately 2,450 feet upstream of Kensington Road. | None | *649 |
| | | Des Plaines River | Approximately 650 feet upstream of Euclid Avenue. | None | *639 |
| | | | Approximately 400 feet upstream of Milwaukee Avenue. | *637 | *640 |
| Maps available for inspection at the Village of Mount Prospect Public Works Department, Engineering Division, 1700 West Central Road, Mount Prospect, Illinois. | | | | | |
| Send comments to The Honorable Gerald L. Farley, Mayor of the Village of Mount Prospect, 100 South Emerson Street, Mount Prospect, Illinois 60056. | | | | | |
| Illinois | Niles (Village), Cook County. | Chicago River North Branch. | Approximately 150 feet downstream of Touhy Avenue. | *614 | *615 |
| | | | Approximately 3,900 feet downstream of Dempster Street. | None | *619 |
| Maps available for inspection at the Village of Niles Public Works Department, 6849 West Touhy, Niles, Illinois. | | | | | |
| Send comments to The Honorable Nicholas B. Blaise, Mayor of the Village of Niles, 1000 Civic Center Drive, Niles, Illinois 60714. | | | | | |
| Illinois | North Riverside (Village), Cook County. | Des Plaines River | Upstream side of 31st Street | *615 | *616 |
| | | | Approximately 50 feet upstream of Cermak Road. | *616 | *618 |
| Maps available for inspection at the Village of North Riverside Building Department, 2401 South Des Plaines Avenue, North Riverside, Illinois. | | | | | |
| Send comments to The Honorable Richard N. Scheck, Mayor of the Village of North Riverside, 2401 South Des Plaines Avenue, North Riverside, Illinois 60546–1596. | | | | | |
| Illinois | Oak Forest (City), Cook County. | Natalie Creek | Approximately 75 feet upstream of 151st Street. | *638 | *639 |
| | | | Approximately 1,500 feet upstream of James Drive (155th Street). | *657 | *654 |
| | | Midlothian Creek Western Branch. | At the confluence with Midlothian Creek | *651 | *648 |
| | | | Approximately 200 feet upstream of the confluence with Midlothian Creek. | *650 | *651 |
| | | Midlothian Creek | Approximately 475 feet downstream of Kenton Avenue. | None | *630 |
| | | | Approximately 1,575 feet downstream of 167th Street. | None | *662 |
| | | Boca Rio Ditch | Approximately 100 feet upstream of 147th Street. | None | *659 |

| State | City/town/county | Source of flooding | Location | #Depth in feet above ground. *Elevation in feet (NGVD) | |
|---|---|---|---|---|---|
| | | | | Existing | Modified |
| | | | Approximately 1,550 feet downstream of 151st Street. | None | *665 |
| Maps available for inspection at the Oak Forest City Hall, 15440 South Central Avenue, Oak Forest, Illinois. | | | | | |
| Send comments to The Honorable Patrick M. Gordon, Mayor of the City of Oak Forest, 15440 South Central Avenue, Oak Forest, Illinois 60452. | | | | | |
| Illinois | Olympia Fields (Village), Cook County. | Butterfield Creek | Just upstream of Vollmer Road | *653 | *656 |
| | | | Just downstream of Cranford Avenue | *684 | *685 |
| | | Butterfield Creek East Branch | Confluence with Butterfield Creek | *682 | *685 |
| | | | Downstream side of Lincoln Highway | *685 | *686 |
| Maps available for inspection at the Olympia Fields Village Hall, 20701 Governors Highway, Olympia Fields, Illinois. | | | | | |
| Send comments to Mr. Linzey D. Jones, Olympia Fields Village President, 20701 Governors Highway, Olympia Fields, Illinois 60461. | | | | | |
| Illinois | Orland Park (Village), Cook County. | Marley Creek Tributary 1 | Approximately 50 feet downstream of Norfolk and Western Railway. | None | *688 |
| | | | Approximately 1.2 miles upstream of 104th Avenue. | None | *702 |
| | | Marley Creek | Approximately 700 feet downstream of 108th Avenue. | None | *687 |
| | | | Approximately 1,200 feet southwest of the intersection of 159th Street and 96th Avenue. | None | *692 |
| | | Long Run Tributary A | Ponding area just east of 108th Avenue | None | *707 |
| | | | Ponding area south and east of Golf Road. | None | *709 |
| | | | Ponding area approximately 300 feet north of intersection of Lake Ridge and Golf Road. | None | *715 |
| | | Spring Creek Ponding Areas. | Upstream side of 108th Avenue | None | *709 |
| | | | Between 108th Avenue and Misty Hill Road. | None | *709 |
| | | | Between Hollow Tree Road and Golf Road. | None | *730 |
| | | | Between Hollow Tree Road and Golf Road. | None | *739 |
| | | Spring Creek | Approximately 1,400 feet upstream of Wolf Road. | None | *700 |
| | | | Approximately 2,800 feet upstream of Wolf Road. | None | *700 |
| | | Tinley Creek | Approximately 300 feet upstream of 82nd Avenue. | None | *661 |
| | | | Approximately 600 feet upstream of Wheeler Drive. | None | *683 |
| Maps available for inspection at the Village of Orland Park Engineering Department, 14700 Ravinia Avenue, Orland Park, Illinois. | | | | | |
| Send comments to Mr. Daniel J. McLaughlin, Village of Orland Park President, 14700 Ravinia Avenue, Orland Park, Illinois 60462. | | | | | |
| Illinois | Palos Hills (City), Cook County. | Lucas Ditch | Approximately 125 feet upstream of confluence with Stony Creek (West). | *585 | *586 |
| | | | Approximately 70 feet upstream of 81st Avenue. | *594 | *595 |
| | | Lucas Ditch Cutoff | Approximately 1,150 feet upstream of confluence with Stony Creek (West). | *589 | *590 |
| | | | Approximately 1,040 feet upstream of 103rd Street. | *594 | *595 |
| Maps available for inspection at the Palos Hills City Hall, 10335 South Roberts Road, Palos Hills, Illinois. | | | | | |
| Send comments to The Honorable Gerald R. Bennett, Mayor of the City of Palos Hills, 10335 South Roberts Road, Palos Hills, Illinois 60465. | | | | | |
| Illinois | Palos Park (Village), Cook County. | Calumet Sag Channel Tributary B. | Upstream side of Calumet Sag Road | None | *606 |
| | | | Downstream side of 119th Street | None | *609 |
| | | Mill Creek | Approximately 400 feet upstream of 127th Street (at intersection of Algoma Drive and Roma Road). | None | *666 |

| State | City/town/county | Source of flooding | Location | #Depth in feet above ground. *Elevation in feet (NGVD) | |
|---|---|---|---|---|---|
| | | | | Existing | Modified |
| | | | Approximately 100 feet downstream of 129th Street. | None | *667 |
| Maps available for inspection at the Palos Park Village Hall, 8901 West 123rd Street, Palos Park, Illinois. | | | | | |
| Send comments to The Honorable Donald H. Jeanes, Mayor of the Village of Palos Park, 8901 West 123rd Street, Palos Park, Illinois 60464. | | | | | |
| Illinois | Park Ridge (City), Cook County. | Des Plaines River | Approximately 100 feet upstream of Higgins Road. | None | *629 |
| | | | Approximately 175 feet downstream of I–294 (Tri-state Tollway). | None | *631 |
| Maps available for inspection at the City of Park Ridge Public Works Department, 505 Butler Place, Park Ridge, Illinois. | | | | | |
| Send comments to The Honorable Ronald W. Wietecha, Mayor of the City of Park Ridge, 505 Butler Place, Park Ridge, Illinois 60068. | | | | | |
| Illinois | Prospect Heights (City), Cook County. | McDonald Creek Tributary A. | At the confluence with McDonald Creek | *653 | *651 |
| | | | At Elmhurst Road | *653 | *651 |
| | | Des Plaines River | Approximately 65 feet downstream of Milwaukee Avenue. | *637 | *640 |
| | | | At confluence of Wheeling Drainage Ditch. | None | *641 |
| Maps available for inspection at the Prospect Heights City Hall, 1 North Elmhurst Road, Prospect Heights, Illinois. | | | | | |
| Send comments to The Honorable Edward P. Rotchford, Mayor of the City of Prospect Heights, 1 North Elmhurst Road, Prospect Heights, Illinois 60070. | | | | | |
| Illinois | Richton Park (Village), Cook County. | Butterfield Creek East Branch. | Approximately 350 feet downstream of Maple Road. | *704 | *705 |
| | | | Approximately 400 feet south of the intersection of Crescentway and Imperial Drive. | None | *730 |
| | | Butterfield Creek East Branch Tributary. | Approximately 50 feet upstream of Elgin Joliet & Eastern Railway. | *705 | *708 |
| | | | Approximately 700 feet upstream of Lake Shore Drive. | *730 | *731 |
| | | Butterfield Creek East Branch Tributary A. | Approximately 580 feet downstream of Amy Drive. | *722 | *723 |
| | | | Approximately 238 feet downstream of Amy Drive. | *722 | *723 |
| Maps available for inspection at the Richton Park Municipal Building, 4455 Sauk Trail, Richton Park, Illinois. | | | | | |
| Send comments to Mr. Rudolph Banovich, Village of Richton Park President, 4455 Sauk Trail, Richton Park, Illinois 60471. | | | | | |
| Illinois | River Forest (Village), Cook County. | Des Plaines River | Upstream side of Madison Street | *619 | *622 |
| | | | Downstream side of North Avenue | *622 | *625 |
| Maps available for inspection at the River Forest City Hall, 400 Park Avenue, River Forest, Illinois. | | | | | |
| Send comments to Mr. Frank M. Paris, Village of River Forest President, 400 Park Avenue, River Forest, Illinois 60305. | | | | | |
| Illinois | River Grove (Village), Cook County. | Des Plaines River | Just upstream of North Avenue | None | *625 |
| | | | Downstream side of Belmont Avenue | *624 | *627 |
| | | Golf Course Tributary | At confluence with the Des Plaines River | None | *625 |
| | | | At Thatcher Road | *622 | *625 |
| Maps available for inspection at the Village of River Grove Administrative Offices, 2621 Thatcher Avenue, River Grove, Illinois. | | | | | |
| Send comments to The Honorable Tom Tarpey, Mayor of the Village of River Grove, 2621 Thatcher Avenue, River Grove, Illinois 60171. | | | | | |
| Illinois | Riverdale (Village), Cook County. | Little Calumet River | Approximately 600 feet upstream of the confluence with Calumet Sag Channel. | None | *588 |
| Maps available for inspection at the Riverdale Village Hall, Office of Community and Economic Development, 157 West 144th Street, Riverdale, Illinois. | | | | | |
| Send comments to The Honorable Joseph Szabo, Mayor of the Village of Riverdale, 157 West 144th Street, Riverdale, Illinois 60827. | | | | | |
| Illinois | Riverside (Village), Cook County. | Des Plaines River | Approximately 50 feet upstream of Ogden Avenue. | None | *600 |
| | | | Downstream side of 31st Street | *615 | *616 |

| State | City/town/county | Source of flooding | Location | #Depth in feet above ground. *Elevation in feet (NGVD) | |
|---|---|---|---|---|---|
| | | | | Existing | Modified |
| Maps available for inspection at the Village of Riverside Building/Zoning Department, 27 Riverside Road, Riverside, Illinois. Send comments to Mr. Paul F. Stack, Riverside Village President, 27 Riverside Road, Riverside, Illinois 60546. | | | | | |
| Illinois | Rosemont (Village), Cook County. | Willow Creek | Confluence with Des Plaines River | *627 | *629 |
| | | | Approximately 895 feet upstream of confluence with Des Plaines River. | *628 | *629 |
| | | Des Plaines River | At downstream corporate limit | *626 | *628 |
| | | | Approximately 1,450 feet upstream of West Higgins Road. | *627 | *629 |
| Maps available for inspection at the Village of Rosemont Engineer's Office, Christopher B. Burke Engineering, Ltd., 9575 West Higgins Road, Suite 600, Rosemont, Illinois. Send comments to The Honorable Donald Stephens, Mayor of the Village of Rosemont, 9501 West Devon Avenue, Rosemont, Illinois 60018. | | | | | |
| Illinois | Schiller Park (Village), Cook County. | Des Plaines River | Approximately 0.42 mile downstream of Irving Park Road. | *624 | *627 |
| | | | Downstream side of Foster Avenue | *626 | *628 |
| | | Crystal Creek | At confluence with the Des Plaines River | *625 | *628 |
| | | | Approximately 924 feet upstream of Scott Avenue. | *638 | *639 |
| | | Sexton Ditch | At confluence with Crystal Creek Tributary. | None | *643 |
| | | | Approximately 1,800 feet upstream of confluence with Crystal Creek Tributary. | None | *643 |
| | | Motel Ditch | At confluence with Industrial Tributary | None | *641 |
| | | | Approximately 2,025 feet upstream of Belle Plaine Avenue. | None | *642 |
| | | Industrial Tributary | At confluence with Crystal Creek Tributary. | None | *640 |
| | | | Approximately 625 feet upstream of TransWorld Road. | None | *645 |
| | | Crystal Creek Tributary | At confluence with Crystal Creek | *638 | *639 |
| | | | Approximately 85 feet downstream of Panoramic Drive. | None | *643 |
| Maps available for inspection at the Village of Schiller Park Building Department, 4501 North 25th Avenue, Schiller Park, Illinois. Send comments to Ms. Anna Montana, Village of Schiller Park President, 9526 West Irving Park Road, Schiller Park, Illinois 60176. | | | | | |
| Illinois | South Barrington (Village), Cook County. | Poplar Creek Tributary | Approximately 2,350 feet upstream of confluence with Poplar Creek. | None | *851 |
| | | | Approximately 1,600 feet upstream of confluence with Poplar Creek. | None | *851 |
| Maps available for inspection at the South Barrington Village Hall, 30 South Barrington Road, South Barrington, Illinois. Send comments to Mrs. Pat Graft, Village of South Barrington President, 30 South Barrington Road, South Barrington, Illinois 60010. | | | | | |
| Illinois | South Chicago Heights (Village), Cook County. | Thorn Creek/Sauk Lake | At downstream corporate limit | None | *682 |
| | | | Approximately 2,150 feet upstream of 26th Street. | None | *682 |
| Maps available for inspection at the South Chicago Heights Village Hall, 3317 Chicago Road, South Chicago Heights, Illinois. Send comments to Mr. David L. Owen, South Chicago Heights Village President, P.O. Box 770, South Chicago Heights, Illinois 60412. | | | | | |
| Illinois | South Holland (Village), Cook County. | Calumet Union Drainage Ditch. | Approximately 920 feet downstream of Vincennes Road. | *599 | *598 |
| | | | Approximately 1,260 feet upstream of Vincennes Road. | None | *602 |
| Maps available for inspection at the Village of South Holland Planning and Development Department, 16226 Wausau, South Holland, Illinois. Send comments to Mr. Richard Zimmerman, Village of South Holland Deputy Clerk, 16226 Wausau, South Holland, Illinois 60473. | | | | | |
| Illinois | Tinley Park (Village), Cook and Will Counties. | Midlothian Creek | Confluence with Midlothian Creek | None | *697 |
| | | Western Tributary | Approximately 1,000 feet upstream of 168th Street. | None | *702 |

| State | City/town/county | Source of flooding | Location | #Depth in feet above ground. *Elevation in feet (NGVD) | |
|---|---|---|---|---|---|
| | | | | Existing | Modified |
| | | Midlothian Creek | Approximately 175 feet downstream of Gentry Lane. | *675 | *682 |
| | | | Approximately 100 feet upstream of 175th Street. | None | *701 |
| | | 76th Avenue Ditch | Confluence with Midlothian Creek | *695 | *694 |
| | | | Approximately 50 feet downstream of 159th Street. | None | *703 |
| | | Tinley Park Reservoir | Entire shoreline within community | *695 | *694 |
| | | Tinley Park Reservoir Shallow Flooding Area. | Approximately 650 feet west of intersection of Oleander Avenue and 167th Street. | *695 | #2 |
| | | Filsen Park Ditch | At the confluence with 76th Avenue Ditch | *695 | *696 |
| | | | Approximately 100 feet upstream of Harlem Avenue. | *695 | *696 |
| | | Ponding Area | At intersection of 70th Avenue and 176th Street. | None | *695 |
| | | Union Drainage Ditch | Upstream side of Oak Park Avenue | None | *694 |
| | | | Approximately 2,175 feet upstream of Oak Park Avenue. | None | *694 |
| Maps available for inspection at the Tinley Park Village Hall, 16250 South Oak Park Avenue, Tinley Park, Illinois. | | | | | |
| Send comments to The Honorable Edward J. Zabrocki, Mayor of the Village of Tinley Park, 16250 South Oak Park Avenue, Tinley Park, Illinois 60477. | | | | | |
| Illinois | University Park (Village), Cook and Will Counties. | Butterfield Creek East Branch. | Approximately 350 feet northwest of the intersection of Davis Avenue and Kostner Avenue. | None | *730 |
| | | | At the county boundary (approximately 2,000 feet downstream of Polk Avenue). | *743 | *741 |
| Maps available for inspection at the University Park Village Hall, 698 Burnham Drive, University Park, Illinois. | | | | | |
| Send comments to Mr. Edward W. Palmer, University Park Village President, 698 Burnham Drive, University Park, Illinois 60466. | | | | | |
| Illinois | Westchester (Village), Cook County. | Salt Creek | Approximately 50 feet upstream of Mannheim Road. | None | *625 |
| | | | Approximately 100 feet upstream of 31st Street. | None | *631 |
| Maps available for inspection at the Village of Westchester Building Department, 10300 Roosevelt Road, Westchester, Illinois. | | | | | |
| Send comments to Mr. John J. Sinde, Village of Westchester President, 10300 Roosevelt Road, Westchester, Illinois 60154. | | | | | |
| Illinois | Wilmette (Village), Cook County. | Chicago River, North Branch. | Approximately 50 feet downstream of East Lake Avenue. | None | *623 |
| | | | At confluence of Skokie River | None | *624 |
| | | Skokie River | At confluence with Chicago River, North Branch. | None | *624 |
| | | | Approximately 650 feet upstream of Edens Expressway. | None | *625 |
| | | Lake Michigan | Entire shoreline affecting community | None | *585 |
| | | Skokie Ditch | At intersection of 21st Street and Beechwood Avenue. | None | *626 |
| Maps available for inspection at the Wilmette Village Hall, 1200 Wilmette Avenue, Wilmette, Illinois. | | | | | |
| Send comments to Ms. Nancy Canafax, Village of Wilmette President, 1200 Wilmette Avenue, Wilmette, Illinois 60091–0040. | | | | | |
| Illinois | Worth (Village), Cook County. | Stony Creek (West) | Approximately 0.78 mile downstream of Harlem Avenue. | None | *589 |
| | | | Just at downstream side of Harlem Avenue. | None | *591 |
| Maps available for inspection at the Worth Village Hall, 7112 West 111th Street, Worth, Illinois. | | | | | |
| Send comments to Mr. James Bilder, Village of Worth President, 7112 West 111th Street, Worth, Illinois 60482. | | | | | |
| Maine | Trescott (Township), Washington County. | Whiting Bay | Approximately 1,200 feet north of intersection of Old Cross Road and State Route 189. | None | *15 |
| | | | Approximately 2,100 feet west of intersection of Raft Cove Point Road and Crows Neck Road. | None | *17 |

| State | City/town/county | Source of flooding | Location | #Depth in feet above ground. *Elevation in feet (NGVD) | |
|---|---|---|---|---|---|
| | | | | Existing | Modified |
| | | Straight Bay | Approximately 2,600 feet northwest of intersection of Timber Cove Road and Crow Neck Road. | None | *15 |
| | | | At northeast side of Falls Island | None | *17 |
| | | Atlantic Ocean | At shoreline of Moose River east of State Route 191. | None | *50 |
| | | | At shoreline approximately 2,000 feet east of Easton Head Ledges. | None | *13 |
| Maps available for inspection at the Washington County Registry of Deeds Office, 47 Court Street, Machias, Maine. | | | | | |
| Send comments to Mr. Fred Todd, Planning & Administrative Division Manager, 22 State House Station, Augusta, Maine 04333. | | | | | |
| Michigan | Ash (Township), Monroe County. | Stony Creek | At corporate limits with Township of Frenchtown. | None | *608 |
| | | | Approximately 200 feet upstream of corporate limits with Township of Frenchtown. | None | *608 |
| Maps available for inspection at the Ash Township Hall, 1677 Ready Road, Carleton, Michigan. | | | | | |
| Send comments to Mr. Thomas L. Mell, Ash Township Supervisor, P.O. Box 387, Carleton, Michigan 48117–0387. | | | | | |
| Michigan | Berlin (Charter Township), Monroe County. | Huron River | At confluence with Lake Erie | *578 | *579 |
| | | | Approximately 0.9 mile upstream of U.S. Turnpike. | *578 | *579 |
| | | Mouillee Creek | At confluence with Lake Erie | *578 | *579 |
| | | | Approximately 40 feet downstream of Hagerman Road. | *578 | *579 |
| | | Swan Creek | At confluence with Lake Erie | *578 | *579 |
| | | | Approximately 3.29 miles upstream of confluence with Lake Erie. | *578 | *579 |
| | | | At Labo Road | None | *590 |
| | | | Approximately 400 feet upstream of Labo Road. | None | *590 |
| | | Lake Erie | Along entire shoreline within community | *578 | *579 |
| | | Laudenschlager Drain | At confluence with Lake Erie | *578 | *579 |
| | | | Approximately 0.5 mile downstream of Hagerman Road. | *578 | *579 |
| Maps available for inspection at the Berlin Charter Township Hall, 8000 Swan View Road, Newport, Michigan. | | | | | |
| Send comments to Mr. James D. Vaslo, Berlin Charter Township Supervisor, 8000 Swan View Road, Newport, Michigan 48166. | | | | | |
| Michigan | Delta (Charter Township), Eaton County. | Miller Creek | At the confluence with Grand River | *808 | *807 |
| | | | Approximately 0.5 mile upstream of St. Joseph Highway. | None | *850 |
| | | Spillway Channel | At confluence with Miller Creek | *819 | *820 |
| | | | At Retention Basin Dam | *829 | *832 |
| Maps available for inspection at the Delta Charter Township Hall, 7710 West Saginaw Highway, Lansing, Michigan. | | | | | |
| Send comments to Mr. Joseph Drolett, Charter Township of Delta Supervisor, 7710 West Saginaw Highway, Lansing, Michigan 48917. | | | | | |
| Michigan | Dundee (Township), Monroe County. | River Raisin | Approximately 835 feet downstream of Ann Arbor Railroad. | None | *648 |
| | | | Approximately 100 feet downstream of Ann Arbor Railroad. | None | *649 |
| Maps available for inspection at the Dundee Township Hall, 179 Main Street, Dundee, Michigan. | | | | | |
| Send comments to Mr. Rollo A. Juckette, Dundee Township Supervisor, P.O. Box 91, Dundee, Michigan 48131–0091. | | | | | |
| Michigan | Erie (Township), Monroe County. | Bay Creek | At the confluence with Lake Erie | *578 | *579 |
| | | | Approximately 50 feet downstream of CONRAIL. | *578 | *579 |
| | | Lake Erie | Along entire shoreline within community | *578 | *579 |

| State | City/town/county | Source of flooding | Location | #Depth in feet above ground. *Elevation in feet (NGVD) | |
|---|---|---|---|---|---|
| | | | | Existing | Modified |
| Maps available for inspection at the Erie Township Hall, 2600 Manhattan Street, Erie, Michigan. Send comments to Mr. Daniel J. Bonkoski, Erie Township Supervisor, P.O. Box 187, Erie, Michigan 48133–0187. | | | | | |
| Michigan | Estral Beach (Village), Monroe County. | Lake Erie | Entire shoreline affecting community | *578 | *579 |
| Maps available for inspection at the Estral Beach Village Hall, 7194 Lakeview, Newport, Michigan. Send comments to Mr. John Wiegand, Estral Beach Village President, 7322 Estral Court, Newport, Michigan 48166. | | | | | |
| Michigan | Frenchtown (Charter Township), Monroe County. | Sandy Creek | At confluence with Lake Erie | *578 | *579 |
| | | | Approximately 300 feet downstream of North Dixie Highway. | *578 | *579 |
| | | Stony Creek | At confluence with Lake Erie | *578 | *579 |
| | | | Approximately 450 feet upstream of North Dixie Highway. | *578 | *579 |
| | | Lake Erie | Along entire shoreline within community | *578 | *579 |
| Maps available for inspection at the Charter Township of Frenchtown Building Department, 2744 Vivian Road, Monroe, Michigan. Send comments to Mr. James K. Spas, Frenchtown Charter Township Supervisor, 2744 Vivian Road, Monroe, Michigan 48162. | | | | | |
| Michigan | Farmington Hills (City) Oakland County. | Main Ravines Drain | At Inkster Road | None | *633 |
| | | | Approximately 70 feet upstream of Tenmile Road. | None | *691 |
| | | Tributary A | At confluence with Main Ravines Drain | None | *641 |
| | | | Approximately 100 feet upstream of Cora Street. | None | *697 |
| | | Tributary B | At confluence with Main Ravines Drain | None | *667 |
| | | | Approximately 980 feet upstream of Brookplace Court. | None | *704 |
| | | Tributary C | At confluence with Main Ravines Drain | None | *633 |
| | | | At Middlebelt Road | None | *727 |
| | | Minnow Pond Drain | Approximately 500 feet upstream of confluence with Upper River Rouge. | *765 | *764 |
| | | | At Fourteen Mile Road | *882 | *880 |
| | | Pebble Creek | At downstream corporate limits | *691 | *694 |
| | | | At downstream side of Fourteen Mile Road. | *892 | *893 |
| | | Seeley Drain | At confluence with Upper River Rouge | *762 | *761 |
| | | | At upstream side of Thirteen Mile Road | *892 | *893 |
| | | Tarabusi Creek | At Eight Mile Road | *701 | *695 |
| | | | Approximately 150 feet downstream of upstream corporate limits. | *749 | *748 |
| | | West Bell Branch Creek | At Eight Mile Road | None | *753 |
| | | | Approximately 570 feet upstream of Rutgers Road. | None | *826 |
| | | North Branch of Main Ravines Drain. | At downstream corporate limits | None | *660 |
| | | | Approximately 100 feet upstream of Eleven Mile Road. | None | *720 |
| Maps available for inspection at the Farmington Hills City Engineering Department, 31555 Eleven Mile Road, Farmington Hills, Michigan. Send comments to The Honorable Aldo Vagnozzi, Mayor of the City of Farmington Hills, 31555 Eleven Mile Road, Farmington Hills, Michigan 48336–1165. | | | | | |
| Michigan | LaSalle (Township), Monroe County. | Otter Creek | At confluence with Lake Erie | *578 | *579 |
| | | | At downstream side of CONRAIL | *578 | *579 |
| | | Lake Erie | Along entire shoreline within community | *578 | *579 |
| Maps available for inspection at the LaSalle Township Hall, LaPlaisance Road and South Dixie Highway, LaSalle, Michigan. Send comments to Mr. Larry Rutledge, LaSalle Township Supervisor, P.O. Box 46, LaSalle, Michigan 48145. | | | | | |
| Michigan | London (Township), Monroe County. | Saline River | Approximately 1.37 mile downstream of U.S. Route 23. | None | *678 |
| | | | Approximately 1.08 miles downstream of U.S. Route 23. | None | *679 |

| State | City/town/county | Source of flooding | Location | #Depth in feet above ground. *Elevation in feet (NGVD) | |
|---|---|---|---|---|---|
| | | | | Existing | Modified |
| Maps available for inspection at the London Township Hall, 13613 Tuttle Hill Road, Milan, Michigan. Send comments to Mr. Ted O'Dell, London Township Supervisor, 13613 Tuttle Hill Road, Milan, Michigan 48160. | | | | | |
| Michigan | Luna Pier (City), Monroe County. | Lake Erie | Entire shoreline affecting community | *578 | *579 |
| Maps available for inspection at the Luna Pier City Hall, 4357 Buckeye Street, Luna Pier, Michigan. Send comments to The Honorable Hadrin C. McCoy, Mayor of the City of Luna Pier, 4357 Buckeye Street, Luna Pier, Michigan 48157. | | | | | |
| Michigan | Monroe (Charter Township), Monroe County. | Plum Creek | At the confluence with Lake Erie | *578 | *579 |
| | | | Approximately 180 feet downstream of Detroit and Toledo Shoreline Railroad. | *578 | *579 |
| | | Lake Erie | Along entire shoreline within community | *578 | *579 |
| Maps available for inspection at the Monroe Charter Township Hall, 4925 West Dunbar Road, Monroe, Michigan. Send comments to Mr. Alan Barron, Monroe Charter Township Supervisor, 4925 West Dunbar Road, Monroe, Michigan 48161. | | | | | |
| Michigan | Monroe (City), Monroe County. | River Raisin | At confluence with Lake Erie | *578 | *579 |
| | | Lake Erie | Approximately 0.2 mile upstream of Interstate 75. | *578 | *579 |
| | | | Along entire shoreline within community | *578 | *579 |
| | | Plum Creek | At confluence with Lake Erie | *578 | *579 |
| | | | Approximately 300 feet downstream of Detroit and Toledo Shoreline Railroad. | *578 | *579 |
| Maps available for inspection at the City of Monroe Engineering Department, 120 East First Street, Monroe, Michigan. Send comments to Mr. Robert Hamilton, Monroe City Manager, 120 East First Street, Monroe, Michigan 48161. | | | | | |
| Michigan | Nashville (Village), Barry County. | Thornapple River | At approximately the Nashville-Castleton corporate limit. | None | *810 |
| | | | Approximately 0.8 mile upstream of Main Street/Nashville Dam. | None | *817 |
| Maps available for inspection at the Nashville Village Office, 206 North Main Street, Nashville, Michigan. Send comments to Mr. Gary White, President of the Village of Nashville, 206 North Main Street, Nashville, Michigan 49073. | | | | | |
| Mississippi | Lexington (City), Holmes County. | Black Creek (Before Levee Overtopping). | Approximately 1.48 miles downstream of State Highway 17 (Yazoo Street). | None | *190 |
| | | | Approximately 1.66 miles upstream of State Highway 17 (Yazoo Street). | None | *208 |
| | | Black Creek (After Levee Overtopping). | Approximately 1.15 miles upstream of State Highway 17 (Yazoo Street). | None | *203 |
| | | | Approximately 1.66 miles upstream of State Highway 17 (Yazoo Street). | None | *206 |
| Maps available for inspection at the Lexington City Hall, 112 Spring Street, Lexington, Mississippi. Send comments to The Honorable Richard Spencer, Mayor of the City of Lexington, 112 Spring Street, Lexington, Mississippi. | | | | | |
| New York | Barneveld (Village), Oneida County. | Cincinatti Creek | Approximately 1,350 feet downstream of Park Avenue. | None | *762 |
| | | | Approximately 1,840 feet upstream of Park Avenue. | None | *781 |
| | | Steuben Creek | At confluence with Cincinatti Creek | None | *772 |
| | | | Approximately 230 feet upstream of State Route 365. | None | *778 |
| Maps available for inspection at the Village of Barneveld Office, 8520 Old Poland Road, Barneveld, New York. Send comments to The Honorable William Hinge, Mayor of the Village of Barneveld, P.O. Box 386, Barneveld, New York 13304. | | | | | |
| South Carolina | Horry County (Unincorporated Areas). | Eden Saltworks Creek | At the end of Route 236, approximately 0.4 mile from its intersection with Little River Neck Road. | *13 | *14 |
| | | | Approximately 400 feet east of the most southeast end of Route 236. | *14 | *13 |
| | | Waccamaw River | Approximately 5.8 miles downstream of Sea Gull Trail. | *16 | *15 |
| | | | Approximately 3.5 miles upstream of the confluence of Mill Swamp. | None | *19 |
| | | Socastee Creek | Approximately 100 feet upstream of the mouth of the Intracoastal Waterway. | *6 | *7 |
| | | | At the CSX Transportation crossing | *22 | *24 |

| State | City/town/county | Source of flooding | Location | #Depth in feet above ground. *Elevation in feet (NGVD) | |
|---|---|---|---|---|---|
| | | | | Existing | Modified |
| | | Cross Swamp | Confluence with Socastee Creek | *21 | *24 |
| | | | Approximately 650 feet downstream of U.S. Route 501. | *23 | 24 |
| Maps available for inspection at the Horry County Code Enforcement Office, 801 Main Street, Suite 121, Conway, South Carolina. | | | | | |
| Send comments to Ms. Linda Angus, Horry County Administrator, P.O. Box 1236, Conway, South Carolina 29526. | | | | | |
| Tennessee | Cheatham County (Unincorporated Areas). | Sycamore Creek | At upstream side of Nashville and Ashland City Railroad. | None | *401 |
| | | | At U.S. Route 41A | None | *491 |
| | | Sams Creek | Approximately 0.9 mile downstream of Sams Creek Road. | *403 | *404 |
| | | | Approximately 0.8 mile upstream of Deerfoot Drive. | None | *515 |
| | | Dry Creek | Approximately 220 feet upstream of Sams Creek Road. | *403 | *404 |
| | | | Approximately 300 feet upstream of Dry Creek Road. | None | *425 |
| | | Pond Creek | Approximately 1,700 feet upstream of River Road. | None | *404 |
| | | | At Natier Road | None | *536 |
| | | West Fork Pond Creek | At confluence with Pond Creek | None | *413 |
| | | | Approximately 1.17 miles upstream of Pond Creek Road. | None | *456 |
| Maps available for inspection at the Cheatham County Courthouse, Building Commissioner's Office, 100 Public Square, Ashland City, Tennessee. | | | | | |
| Send comments to Ms. Linda Fizer, Cheatham County Executive, 100 Public Square, Suite 105, Ashland City, Tennessee 37015. | | | | | |
| West Virginia | Matewan (Town, Mingo County). | Tug Fork | At downstream corporate limits | *691 | *693 |
| | | | Approximately 1,650 feet upstream of Norfolk and Western Railway. | *693 | *699 |
| Maps available for inspection at the Town of Matewan Development Center, Main Street, Matewan, West Virginia. | | | | | |
| Send comments to The Honorable John Fullen, Mayor of the Town of Matewan, P.O. Box 306, Matewan, West Virginia 25678. | | | | | |

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

Dated: July 31, 1998.

**Michael J. Armstrong,**

*Associate Director for Mitigation.*

[FR Doc. 98–21194 Filed 8–6–98; 8:45 am]

BILLING CODE 6718–04–P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 76

**[CS Docket No. 98–120; FCC 98–153]**

### Carriage of the Transmissions of Digital Television Broadcast Stations

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Notice of Proposed Rulemaking (''NPRM'') addresses the carriage of digital broadcast television signals by cable operators. It seeks comment of the issues surrounding the interoperability of the digital television broadcast system, the cable system, and the digital receiver. It seeks comment on whether to amend the cable television broadcast signal carriage rules to accommodate the carriage of digital broadcast television signals. It also seeks comment on changes in other parts of the cable television rules that may be required because of the carriage of digital television signals.

**DATES:** Comments on the NPRM are due on or before September 17, 1998. Reply comments on the NPRM are due on or before October 30, 1998. Written comments by the public on the proposed information collection requirements contained should be submitted on or before September 17, 1998. If you anticipate that you will be submitting comments on the proposed information collection requirements, but find it difficult to do so within the period of time allowed by this NPRM, you should advise the contact listed below as soon as possible.

**ADDRESSES:** A copy of any comments on the proposed information collection requirements contained herein should be submitted to Judy Boley, Federal Communications, Room 234, 1919 M St., N.W., Washington, DC 20554 or via internet to jboley@fcc.gov and to Timothy Fain, Office of Management and Budget, Room 10236 NEOB, Washington, DC 20503, (202) 395–3561 or via internet at fain__t@al.eop.gov.

**FOR FURTHER INFORMATION CONTACT:** For additional information concerning the NPRM contact Ben Golant at (202) 418–7111 or via internet at bgolant@fcc.gov. For additional information concerning the proposed information collection requirements contained in this NPRM contact Judy Boley at 202–418–0214 or via internet at jboley@fcc.gov.

**PAPERWORK REDUCTION ACT:** The requirements proposed in this NPRM have been analyzed with respect to the Paperwork Reduction Act of 1995 (the ''1995 Act'') and would impose new information collection requirements on the public. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public to take this opportunity to comment on the proposed information collection requirements contained in this NPRM, as required by the 1995 Act. Public comments are due on October 6,

1998. Written comments must be submitted by the OMB on the proposed information collection requirements on or before October 6, 1998. Comments should address: (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 estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

*OMB Approval Number:* 3060–XXXX (new collection).

*Title:* Carriage of the Transmissions of Digital Television Broadcast Stations.

*Type of Review:* New collection.

*Respondents:* Businesses or other for-profit entities.

*Number of Respondents:* 12,600.

*Estimated Time Per Response:* 30 minutes to 40 hours, dependent upon the specific information collection requirement addressed in this collection.

*Frequency of Response:* On occasion.

*Total Annual Burden to Respondents:* 92,349 hours.

*Total Annual Cost to Respondents:* $2,355,122.

*Needs and Uses:* The proposed information collection requirements contained in this proceeding, if adopted, will be used by a variety of respondents to serve the following purposes. The purpose of the tentative digital must-carry/retransmission consent election process, market modification process, and digital must-carry complaint process is to enable broadcast licensees to exercise their possible must-carry/retransmission consent rights in an effective manner. The purpose of the various broadcast licensee notification obligations contained in the Commission's program exclusivity rules is to protect the exclusive distribution rights afforded to such broadcast licensees. The purpose of the subscriber notification requirements placed upon cable operators is to protect subscribers' consumer rights by ensuring that cable operators notify them when new digital channels have been added to their channel line-ups and ensuring that cable operators notify them when cable systems carry channels that cannot be viewed via cable without a converter box.

## Synopsis

### I. Introduction

1. The statutory provision triggering this rulemaking is found in Section 614(b)(4)(B) of the Act. This section requires that: ''At such time as the Commission prescribes modifications of the standards for television broadcast signals, the Commission shall initiate a proceeding to establish any changes in the signal carriage requirements of cable television systems necessary to ensure cable carriage of such broadcast signals of local commercial television stations which have been changed to conform with such modified standards.'' In our *Fourth Further Notice of Proposed Rule Making* in MM Docket 87–268, 60 FR 42130 (August 15, 1995), we sought and received comments addressing digital broadcast television carriage issues. The Commission, however, indicated its intention to update the record and seek further comment on these issues. We issue this NPRM to seek additional comments to reflect our recent prescription of the modification of the standards for television broadcast signals in a digital broadcast format; to recognize the Commission's adoption of additional digital broadcast television policies and rules; to address advances in digital television technology in the last two years; to take into consideration recent legislative developments regarding the digital broadcast television buildout schedule as well as Congress' pronouncement that ancillary and supplementary digital television services do not have must carry status; and to recognize the Supreme Court's decision upholding the constitutionality of the existing analog must carry provisions. In addition, we are broadening this proceeding to consider technical compatibility issues and other changes in the Commission's rules, such as those concerning retransmission consent, program exclusivity and rate regulation, that may also be required to recognize the conversion of the existing broadcasting system to the new digital format and to a new table of allotments.

### II. Legal Context

2. Section 614(b)(4)(B) was adopted as part of a larger must carry/retransmission consent scheme set forth in the Cable Television Consumer Protection and Competition Act of 1992. This statute amended the Act to provide television stations with certain carriage rights on local market cable television systems. Sections 614 and 615 of the Act contain the cable television ''must carry'' requirements. Section 325 contains revised ''retransmission consent'' requirements pursuant to which cable operators may be obligated to obtain the consent of broadcasters before retransmitting their signals. Within local market areas, presently defined as Arbitron's Area of Dominant Influence (''ADI''), commercial television stations may elect cable carriage under either the retransmission consent or mandatory carriage requirements. Noncommercial television stations may only elect must carry under the Act. In addition, pursuant to Sections 653(c)(1)(B) and (c)(2) of the Act, adopted as part of the Telecommunications Act of 1996, open video system operators are also subject to broadcast signal carriage requirements.

3. With regard to the mandatory cable carriage provisions, Congress believed that laws were required to ensure: (1) the continued availability of free over-the-air television broadcast service; (2) the benefits derived from the local origination of programming from television stations; and (3) as it relates to noncommercial television stations, the continued distribution of unique, noncommercial, educational programming services. Congress reasoned that without mandatory carriage provisions in place, the economic viability of local broadcast television and its ability to originate quality local programming would be jeopardized. Congress also believed that because cable systems and broadcast stations compete for local advertising revenue and because cable operators have an interest in favoring their affiliated programmers, cable operators have an incentive to delete, reposition, or refuse to carry local television broadcast stations. These conclusions, and the carriage provisions themselves, were premised on findings made by Congress at the beginning of this decade that most subscribers to cable television systems do not or cannot maintain antennas to receive broadcast television services, do not have input selector switches to convert from a cable to an antenna reception system, or cannot otherwise receive broadcast television services. The retransmission consent provision was predicated on the finding that cable systems obtain ''great benefits from local broadcast signals,'' in the form of subscribership and increased audience for cable programming services, which they have previously been able to obtain without the consent of the broadcaster or any copyright liability.

4. Under the mandatory carriage provisions, cable operators, subject to certain capacity based limitations, are generally required to carry local television stations on their cable

systems. The Act states that systems with more than 12 usable activated channels must carry local commercial television stations, ''up to one-third of the aggregate number of usable activated channels of such system[s].'' Beyond this requirement, the carriage of additional broadcast television stations is at the discretion of the cable operator. In addition, cable systems are obliged to carry local noncommercial educational television stations according to a different formula and based upon a cable system's number of usable activated channels. Low power television stations may request carriage if they meet six statutory criteria. A cable operator, however, cannot carry a low power station in lieu of a full power station.

5. Cable operators are required to carry local television stations on a tier of service provided to every subscriber and on certain channel positions designated in the Act. Cable operators are prohibited from degrading the television station's signal but are not required to carry duplicative signals or video that is not considered primary. Television stations may file complaints with the Commission against cable operators for non-compliance with section 614 and section 615. In addition, both cable operators and television stations may file petitions with the Commission to either expand or contract a commercial television stations' market for broadcast signal carriage purposes. These statutory requirements were implemented by the Commission in 1993, and are reflected in §§ 76.56–64 of the Commission's rules.

6. Section 336 of the Act, added as part of the Telecommunications Act of 1996, provides that if the Commission determines to issue additional licenses for advanced television services, the Commission should ''allow the holders of such licenses to offer such ancillary or supplementary services . . . as may be consistent with the public interest, convenience, and necessity.'' It then further provides that ''no ancillary or supplementary service shall have any right to carriage under section 614 or 615.'' In the legislative history of this provision, Congress stated that it did not intend to ''confer must carry status on advanced television or other video services offered on designated frequencies'' adding that the ''issue is to be the subject of a Commission proceeding under section 614(b)(4)(B) of the Communications Act.''

7. The Commission recently adopted rules establishing a transitional process for the conversion from an analog to a digital form of transmission. In broad outline, the rules and policies adopted make each existing analog television licensee or permittee eligible to apply to construct or operate a new digital station with a roughly comparable service area using 6 MHz of spectrum. The new digital station will transmit a signal consistent with the standards adopted in the *Fourth Report and Order* in MM Docket No. 87–268, 62 FR 14006 (March 25, 1997), giving stations the flexibility to broadcast in a high definition mode, in a multiple program standard definition mode, or a mixture of both. During a transitional period, both the analog and digital television signals will be broadcast. At the end of the transition, the licensee will cease broadcasting an analog signal and will return to the government 6 MHz of spectrum. There are no federal digital cable transition requirements. Cable operators are transitioning to digital on a voluntary basis and in some instances, cable franchising agreements may require operators to upgrade their physical plant and offer digital services. Thus, as the transition to digital occurs, a significant level of complexity will arise due to the different time schedules followed by the nearly 1,600 television licensees and the approximately 11,000 U.S. cable systems with respect to the implementation of digital transmissions.

8. The rules governing the transition from analog to digital broadcasting are found in the *Fifth Report and Order* in MM Docket No. 87–268, 62 FR 26966 (May 16, 1997). This *Order* set forth a staggered implementation schedule for the introduction of digital broadcast television. Construction requirements vary depending on the size of the television market and other factors. In the first category, all stations in the top ten television markets that are affiliated with NBC, CBS, Fox, or ABC will have until May 1, 1999, to construct their digital facilities. In the second category, all stations in the top 30 television markets not included above that are affiliated with NBC, CBS, Fox, or ABC will have until November 1, 1999, to construct their digital facilities. In the third category, all other commercial stations will have until May 1, 2002, to construct their digital broadcast television facilities. All noncommercial stations will have until May 1, 2003, to construct their digital broadcast television facilities. We note that 24 television station licensees have expressed to the Commission their intention to voluntarily expedite their schedules and complete construction and begin broadcasting by November, 1998.

9. Commencing April 1, 2003, digital broadcast television licensees and permittees must simulcast at least 50% of the video programming transmitted on their analog channel; commencing April 1, 2004, there will be a 75% simulcasting requirement; commencing April 1, 2005, there will be a 100% simulcasting requirement until the analog channel is terminated and returned to the Commission.

10. Congress, in the Balanced Budget Act of 1997 (''BBA''), codified certain exceptions to the return of spectrum by the 2006 target date established by the Commission. That statute established conditions under which the return may be extended beyond December 31, 2006, upon the request of a television station. To retain its analog channel beyond that date, a television station will have to demonstrate that: ''(i) one or more of the stations in the relevant television market that are licensed to, or affiliated with, one of the four largest national television networks, is not broadcasting a digital television service signal, and the Commission finds that such station has exercised due diligence and satisfies the conditions for an extension of the Commission's applicable construction deadlines for digital television service in that market; (ii) digital-to-analog converter technology is not generally available in such market; or (iii) in any market in which an extension is not available under clause (i) or (ii), 15 percent or more of the television households in such market—(I) do not subscribe to a multichannel video programming distributor (as defined in section 602) that carries one of the digital television service programming channels of each of the television stations broadcasting such a channel in such market; and (II) do not have either—(a) at least one television receiver capable of receiving the digital television service signals of the television stations licensed in such market; or (b) at least one television receiver of analog television service signals equipped with digital-to-analog converter technology capable of receiving the digital television service signals of the television stations licensed in such market.'' As the statutory language indicates, the return of the analog spectrum is in part dependent on the carriage of digital television stations by cable operators and other multichannel video programming distributors (''MVPDs''). In the BBA's legislative history, Congress stated that it was ''not attempting to define the scope of any MVPD's 'must carry' obligation for digital television signals'' and that the digital broadcast television must carry

decision is ''for the Commission to make at some point in the future.''

11. We read Section 614(b)(4)(B) of the 1992 Cable Act and Section 309(j) of the Balanced Budget Act, along with their respective legislative histories, to give us broad authority to define the scope of a cable operator's signal carriage requirements during the period of change from analog to digital broadcasting. Given this intent, and noting the significant changes that are taking place in the broadcast and cable television industries, as well as in the development of television reception devices, we tentatively conclude that the Commission should have, and does have, the ability to develop rules to facilitate the transition process and to take into account the technical changes involved. We seek comment on this tentative conclusion.

12. While we believe Congress has given the Commission discretion in exploring and deciding the complex issues involved in this proceeding, we take as our starting point the general framework governing the carriage of television stations currently found in Section 614, 615, and 325 of the Act. Section 614(b)(4)(B), and its legislative history, appears to support this approach as Congress intended that the Commission establish technical standards for the carriage of digital television signals. Based on the legislative history and the existing carriage provisions, we believe that the participation by the cable industry during the transition period is likely to be essential to the successful introduction of digital broadcast television and the rapid return of the analog spectrum to the Commission.

13. We also realize, given the history of the must carry provisions and the litigation relating to them, that any rules adopted by the Commission must be carefully crafted to permit them to be sustained in the face of a constitutional challenge. Such rules must be consistent with the judicial decisions regarding the constitutional limitations applicable in this area and in particular with the Supreme Court's holding in *Turner Broadcasting System* v. *FCC,* 117 S.Ct. 1174 (1997) (''Turner II''). As the Supreme Court has noted in a previous decision reviewing the must carry provisions, ''[w]hen the Government defends a regulation on speech as a means to redress past harms or prevent anticipated harms, it must do more than simply 'posit the existence of the disease sought to be cured.' . . . The government must demonstrate that the recited harms are real, not merely conjectural, and that the regulation will in fact alleviate these harms in a direct and material way.'' *Turner Broadcasting System* v. *FCC,* 512 U.S. at 664 (1995) (''Turner I''). In *Turner II,* the Supreme Court found the must carry provisions of the 1992 Cable Act to be content neutral regulations subject to intermediate First Amendment scrutiny. The Court emphasized that preserving the benefits of free, over-the-air broadcast television, promoting the widespread dissemination of information from a multiplicity of sources, and promoting fair competition in the market for television programming, were important governmental interests. The court noted that there was substantial evidence before Congress supporting the predictive judgment that local broadcasters denied carriage ''would suffer financial harm and possible ruin'' in the absence of carriage rules and the Government's assertion that ''the economic health of local broadcasting is in genuine jeopardy and in need of the protections afforded by must-carry'' was found to be reasonable and supported by the evidence. In addressing the question of whether the requirements ''burden substantially more speech that is necessary'' to further the governmental interest involved, the Court indicated that ''the actual effects are modest'' and that ''[s]ignificant evidence indicates the vast majority of cable operators have not been affected in a significant manner by must-carry.'' The Court concluded that the requirements were not invalid based on a challenge that they are ''substantially broader than necessary to achieve the government's interest. Noting that *Turner II* did not address the mandatory carriage of the broadcaster's digital television signal, we ask how the Court's reasoning and conclusions would apply in the context of this proceeding.

14. Given this background, we find it essential to build a record relating to the interests to be served by any digital broadcast signal carriage rules, the factual predicate on which they would be based, the harms to be prevented, and the burdens they would impose. Having an updated record is particularly important because of the many legal and technical developments that have taken place since the analog must carry provisions were enacted in 1992, and to take into account the differences brought about by the conversion to digital broadcasting and the parallel conversion to digital cable operations. For example, television reception via antennas has been made easier and more convenient than was the case earlier this decade. Legal barriers to over-the-air reception of broadcast signals, caused by restrictions on antenna placement, have been reduced because of the over the air reception device preemption provisions of the Telecommunications Act of 1996. Input selector (''A/B'') switches, which allow the subscriber to switch between cable and an antenna, may now be built into television receivers and can be easily controlled from a TV remote control device. Some of the reception problems that made it difficult for certain consumers to receive over-the-air broadcast signals may be eliminated by the conversion to digital. Broadcasting may not be the only source of local programming as cable operators have developed local news channels and public, educational, and governmental access channels, which provide highly localized content, have multiplied in the past six years. We seek to develop through this proceeding, the facts and data necessary for a complete record and ask for the assistance of all parties in developing that record.

## III. Digital Compatibility

15. In this section, we address the compatibility issues recognizing that the introduction of DTV, and any carriage rules we may implement, will be most successful if all the components of the transmission path work together. Furthermore, an understanding how the different technical elements fit together is essential to a discussion of the core digital broadcast signal carriage issues. Here, we explain how digital transmission systems function and the means of transporting the DTV signal through the cable system to the subscriber. This discussion is particularly important in understanding the cable system channel capacity, channel position, and technical standards issues that are addressed at length throughout the document. Possible technical impediments preventing the reception of the DTV signal are raised, including matters that are integral to the discussion of material degradation in Section IV of the text.

16. Cable carriage of television broadcast signals in the existing analog environment involves the need to coordinate multiple technical systems—a television broadcast station transmission, a cable television distribution system, and a television receiver. All three are standardized by regulation or custom to transmit, distribute, and display analog NTSC television pictures. Although issues sometimes arise as to how these parts fit together from a technical perspective, the basic elements are relatively standard and well known. In the new

digital environment, however, neither law nor regulation standardizes every element. How the multiple technical systems will function in a digital environment remains to be seen. We note that the various technical elements involved in digital broadcast signal carriage are constantly in flux as technology advances. We set forth our basic current understanding of the applicable technical context and seek comment and updated information relating to this review.

17. The digital television transmission system and related standards were established by the Advanced Television Systems Committee (''ATSC''). The components, or comprising layers, are the video/audio layer, compression layer, transport layer, and the transmission layer. At the top of the ATSC hierarchy is the uncompressed digital signal in one of the various video/audio formats. Under the ATSC's highly flexible standard, it is possible to transmit high definition pictures and high quality sound, multiple standard definition pictures, and other ancillary related or unrelated communications, with the mix of services changing dynamically from second to second. The video content may be transmitted in the progressive scan or in the interlaced transmission format. Pictures may be transmitted in a standard definition format, such as 480 progressive, or in a high definition format, such as 720 progressive or 1080 interlaced. The bitstream that corresponds with the video/audio layer is known as the elementary stream.

18. At the next level down in the hierarchy is the compression layer. The purpose of this layer is to take the elementary stream from the layer above and compress it into a bitstream with a lower data rate. In the ATSC standard, MPEG–2 compression is used for the video and the Dolby AC–3 compression is used for the audio. The amount of compression depends upon the compression format chosen. Additional compression lowers the data rate, but at the possible loss of some video/audio quality.

19. The compressed bitstream, in turn, may be packetized and multiplexed with other bitstreams into a higher data rate digital bitstream. This is done in what is referred to as the transport layer. This multiplexed bitstream may include multiple programs and/or multiple data signals. The ATSC standard uses the MPEG–2 transport protocol for this purpose.

20. The lowest layer in the hierarchy is referred to as the transmission layer. Here, the multiplexed bitstream from the transport layer is modulated onto a radio frequency (''RF'') carrier. The ATSC set forth standards for two modulation modes using vestigial sideband modulation (''VSB''): a terrestrial broadcast mode (8 VSB) and a high data rate mode (16 VSB), which is said to be capable of reliably delivering approximately twice the data throughput in a 6 MHz cable television channel as the 8 VSB mode (38 Mbps as compared to 19 Mbps). The 8 VSB standard has been optimized for terrestrial broadcast television delivery where transmission errors and data loss are likely. The Commission has adopted VSB as part of the digital broadcast standard. The Commission, however, has not adopted a digital cable standard nor has the industry embraced the use of 16 VSB. Instead, cable operators plan to transmit digital communications, from the headend to the subscriber, using quadrature amplitude modulation (''QAM''), either 64 QAM or 256 QAM (which is closer to 16 VSB in terms of its data rate). Both 64 and 256 QAM likely will provide cable operators with a greater degree of operating efficiency than does 8 VSB, and permits the carriage of a higher data rate, with less bits devoted to error correction, when compared with the digital broadcast system.

21. The above description of the four layer hierarchy is based upon a sequence of events at the transmitting end of a digital television system. That is, it started with the elementary digital stream which is compressed in the compression layer, multiplexed in the transport layer and modulated onto an RF carrier in the transmission layer. The signal progresses from layer-to-layer down the protocol stack. At the receiving end, the process is reversed.

22. While the conversion of television stations to a digital transmission mode is generally associated with greatly improved sound and picture quality in the high definition mode and with better and more flexible reception in the standard definition mode, the practical definition of ''digital'' in the cable context may vary from system to system. The fact that a portion of a cable system capacity is digital may mean only that more channels are offered with no fundamental enhancements in sound and picture quality. For example, a cable system making use of TCI's Headend in the Sky or ''HITS,'' would be distributing various packages of digitally compressed satellite-based programming to subscribers with an associated set top box. Current HITS technology allows for at least twelve digitally compressed channels to fit onto one analog cable channel. The programming content is compressed and bundled into discrete groups of programming services at TCI's satellite uplink so that it can be passed through by the system operator essentially without additional processing. However, there are cable operators that will be offering digital cable using QAM on an upgraded cable system. For example, in the case of a 750 MHz system, the 54 MHz to 550 MHz region of the cable system may be reserved for analog signals, while the 550 to 750 MHz area will carry dozens of digital signals. A critical distinction between the two is that systems subscribing to HITS may not necessarily have excess capacity to carry digital television stations while a 750 MHz QAM system may, in fact, have such capacity.

23. A critical aspect of the digital television transmission path involves the digital cable set top boxes. Significant issues arise as to how set top boxes will interact with the distribution of both digital cable and digital broadcast signals. Digital cable set top boxes perform digital signal processing, decompression, and demultiplexing functions. The receiving device demodulates the carrier, i.e., it extracts the multiplexed bitstream from the carrier, in the transmission layer. The multiplexed bitstream is passed up to the transport layer where it is demultiplexed into its component bitstreams. The individual streams are, in turn, passed up to the compression layer where they are decompressed and passed up into the video/audio layer for decoding and display. The set top box also controls access to prevent theft of the service and makes compressed digital cable services available for reception on analog NTSC television receivers. In an entirely digital environment, the set top box and the digital receiver may work in tandem by trading off the digital processing function. For example, a set top box that lacks sufficient processing power and memory to uncompress a high definition signal could nevertheless deliver the compressed data stream to the receiver where it would be uncompressed. A variety of concerns have been raised regarding the set top box's ability to ''pass through'' the signals of digital broadcast stations, including in particular, high definition signals. The concern stems from three separate, but related, developments: (1) the possibility of shared functions between set top boxes and receivers; (2) the possible lack of processing power and memory in some set top boxes; and (3) the possibility of broadcast signals being passed directly through to

receivers without any processing by the set top box.

24. ''Pass through,'' in one scenario, means that the signals in the VSB format would be passed through the set top box, without being processed, and sent directly into the receiver for display. If the signal was sent through the system in the proper format and the receiver was capable of displaying that signal, the set top box would create no obstacle since it was bypassed in the distribution chain. Under another scenario, the set top box would play a partial processing function by detecting, demodulating and demultiplexing the signal, but leave it compressed. The signal would then be passed to the receiver which would uncompress it. The reasons a box might be designed to function in this fashion is that extra memory and processing power are required to uncompress certain of the high definition formats and thus a less expensive box could be designed if the circuitry in the television receiver could be shared and used to address the compression issue.

25. Another scenario is where the set top box converts the digital signal for display on NTSC television receivers. Conversion will allow cable subscribers to view digital television on their current analog television receivers. However, to process high definition video programs, the set top box would need sufficient memory and computing power, which would add to the cost of the equipment. Regardless of which techniques are used, electronic program guides and other interactive set top features may not work with signals that are not processed by the set top box. We seek comment updating and informing us on the current state of set top box technology as it relates to the carriage, pass through, and/or conversion of digital broadcast signals.

26. It has been suggested that some of the digital broadcast-set top box processing issues could be addressed through the use of a digital bus, exemplified by a standard interface known as IEEE–1394. This interface could allow a digital set-top box to share some of the resources of other devices in terms of the processing of digital signals, such as the MPEG decoder in a digital television receiver. Thus, high definition signals can be processed and displayed on the digital television receiver through the bus even though the digital set top box could not perform the processing function. This interface is also important in the context of digital broadcast signal carriage because it may be needed to ensure that on-screen graphics and program guide capabilities are enabled for the digital broadcast signals that are being carried. We seek comment on whether a bus standard could in fact address some of the set top box interface issues raised above. We are aware that the relevant industries are developing an interface standard and we fully expect that they will move quickly to adopt this standard. Given this, we thus far have concluded that the goal of an effective interface can be met without regulatory action. Nonetheless, because of the importance of this issue and because of recent reports that the development of a standard may not be proceeding as expeditiously as previously thought, we ask if the Commission should consider rules, or other appropriate action, e.g., establishment of a deadline, to ensure that both the set top box and the digital receiver are 1394-compatible. If not, are there other devices or attachments on the market or being developed that would provide a simplified or more desirable interconnection between the set top and the digital receiver?

27. It is difficult as this point in time to determine the technical abilities of the different digital set top boxes already distributed and in production, and how different cable operators will engage set top boxes in their business plans. At least one major system operator, TCI, has indicated that the set top boxes it will employ will ultimately be capable of passing through digital broadcast transmissions to the cable subscriber. This may involve simply providing a direct connection through the digital set top box to the digital television receiver. Although we do not want to impose unnecessary requirements, we seek comment on whether a mandate that set top boxes be designed to process all types of digital broadcast television formats is needed, and if so, what additional cost (to cable operators and at retail to consumers) would be involved. What effect would such a requirement have on the commercial availability of set top boxes? Would the remote control units used with the digital set top box also work with all digital receivers?

28. Digital cable set top boxes may also perform certain other operations that may need to be considered, such as functions that are intended to assist program suppliers providing ''copy protection'' to their programming. The copy protection concern is that parties having access to the basic content of digital programming can make copies that are virtually as good as the original thus creating commercial incentives to withhold or delay the distribution of certain programming product. In February, 1998, five members of the ad hoc Copy Protection Technical Working Group presented a proposal aimed at protecting digital video and audio content riding on and between personal computers, digital receivers, set-tops, digital video cassette recorders and digital video disk players. Work is continuing on this effort. In this instance, we ask whether copy protection is a matter that the Commission should explore in further detail in this proceeding, in terms of the general issue of equipment compatibility.

29. Receiver manufacturers are in the process of designing digital television sets. Their features are not standardized and the Commission has, to date, specifically declined to adopt digital television receiver standards. Moreover, the ATSC DTV standard does not specify requirements for a compliant receiver. In essence, DTV receiver designs are to be based on the specifications of the signal contained in the other portions of the standard. It appears, however, that all digital television receivers will be built to receive VSB transmissions and to process all 18 ATSC formats. Whether they will be capable of receiving QAM transmissions, and be built with a standard interface such as IEEE 1394, is less certain. Regardless of how the digital television set is configured, it appears likely that there will be a considerable market for digital converter boxes that mediate between analog television receivers and digital transmission systems to lower the cost of digital reception. In this area, we seek comment on whether television receivers will be digital cable (QAM)-ready, or 1394 ready, and when such sets would be available to the public. Should the Commission take action to encourage the production of cable-ready receivers to facilitate the introduction of digital broadcast television? We also seek comment on whether the matters at issue in this proceeding suggest the need for an industry receiver standard. Is this the right proceeding to address these matters?

## IV. Carriage and Retransmission Consent Issues

30. Section 325 contains the Act's retransmission consent provisions. The law governing retransmission consent generally prohibits cable operators and other multichannel video programming distributors from retransmitting the signal of a commercial television station, radio station or low power station without the prior consent of the station whose signal is being transmitted, unless the broadcaster has chosen must carry. Every three years, commercial television stations must elect between pursuing their mandatory

carriage rights or their retransmission consent rights. Noncommercial television stations do not have retransmission consent rights.

31. It has been estimated that approximately 80 percent of commercial television broadcasters elected retransmission consent on some cable systems, rather than must carry, during the 1993–1996 election cycle. Thus, assuming this information is accurate, the question arises as to whether the general pattern will be repeated with respect to digital broadcast television stations during the transition period. There are reasons to believe it might not be because few cable subscribers will have digital receivers, at least initially. If it is repeated, however, it is possible that many of the transitional issues involved in this proceeding will be resolved through retransmission consent negotiations. Also, if the general retransmission consent pattern is repeated, the digital television stations scheduled to begin broadcasting in November 1998, May 1999, and November 1999, are most likely to exercise retransmission consent for the third election cycle currently scheduled to commence on January 1, 2000, even if there were digital must carry requirements in place. Television stations not affiliated with the four major networks and commercial television stations in smaller markets are those broadcasters most likely to exercise the must carry option, but a number of these stations will not commence digital operations until the year 2002, when they are required to do so under the Commission's rules. We seek comment on these general estimates and what effect these market factors would have on the need to implement must carry rules immediately. Moreover, what effect would not setting rules have on television stations, not affiliated with the top four networks, that want to build out earlier than 2002? We also seek comment on how retransmission consent, rather than must carry, will speed the transition to digital television. For example, a cable operator could agree to carry a broadcaster's ancillary and supplementary digital services, that are not subject to a must carry requirement, and the carriage of such services could spur consumers to purchase digital receivers.

32. The advent of digital broadcast television raises certain potential retransmission consent procedural issues that need to be addressed. The Broadcasters had previously commented that the retransmission consent process should apply separately to the analog and digital broadcast signal. They argue that separate must carry/retransmission consent elections should be allowed for each transmission mode. In this context, we first seek comment on whether analog and digital broadcasts constitute separate ''broadcasting stations'' for purposes of retransmission consent and digital broadcast signal carriage. Would the Broadcaster's approach be desirable because it permits the separation of two possibly unrelated issues? Conversely, we ask whether the Broadcasters' proposal would unbalance the negotiation process by divorcing decisions made by a single licensee during the transition to digital television.

33. We further inquire as to whether a common retransmission/must carry election is required for the broadcaster's entire transmission or may the broadcaster select which of its channels or programming streams is deemed a must carry program stream and which is a retransmission consent program stream. We note that the Commission has stated in the analog context that ''any broadcast station that is eligible for must-carry status, although it may be carried pursuant to a retransmission consent agreement must . . . be carried in the entirety, unless carriage of specific programming is prohibited . . . pursuant to our rules.'' Nonetheless, it may be desirable to allow partial carriage pursuant to the retransmission consent process if that is what the parties agree to. We seek comment on what countervailing policy would suggest a requirement for all of a station's digital broadcast output and whether changes in the policy described above are warranted.

34. As stated previously, the Act requires local commercial television stations to elect either must carry or retransmission consent on a triennial basis. The first election cycle ended on December 31, 1996, and the second election cycle ends on December 31, 1999. Assuming that there was some form of mandatory digital broadcast signal carriage rules in place during the transition period, we ask whether the current must carry/retransmission consent cycle should be shortened or otherwise changed to further accommodate the introduction of digital broadcast television? Are changes in the election cycle permitted under the Act? We note that new television stations can make their initial election anytime between 60 days prior to commencing broadcast and 30 days after commencing broadcast with the initial election taking effect 90 days after they are made. Instead of revising the election cycle, should we instead apply the current ''new station'' rule to digital broadcast television signals when they sign on-the-air? Alternatively, if there were no mandatory digital broadcast signal carriage rules in place, we seek comment on the procedural mechanisms necessary for digital television stations to enforce their retransmission consent rights against cable operators.

35. Section 325(b)(2)(D) exempts cable operators from the obligation to obtain retransmission consent from superstations whose signals were available by a satellite or common carrier on May 1, 1991. The legislative history behind this provision states that an exemption from retransmission consent was necessary ''to avoid sudden disruption to established relationships'' between superstations and satellite carriers. United Video, in comments filed in response to the *Fourth Further Notice* in MM Docket No. 87–268, 60 FR 42130 (August 15, 1995), explains that the exemption permits it to continue to uplink superstations signals and transmit them to cable operators and other facilities-based multichannel video providers. We seek comment on whether the digital replacement stations for these analog superstations should be treated as new stations for purposes of the retransmission consent provisions or whether they should have the same status as the ones they replace.

36. In the *Must Carry Report and Order,* MM Docket No. 92–259, 58 FR 17350 (April 2, 1993), we specifically prohibited exclusive retransmission consent agreements between television broadcast stations and cable operators. This policy forbids a television station from making an agreement with one MVPD for carriage exclusive of other MVPDs. The Commission, however, indicated that while this restriction was desirable at least initially, it would reconsider the need for such a prohibition. We now seek comment on the continuing desirability of this prohibition. We ask what impact the introduction of digital television has on this policy and how the Commission's decision in this regard would hasten or slow down the transition period.

37. We recognize that the most difficult issues arise during the transition because there will exist, for a temporary period, approximately twice as many stations as are now in operation or will be in operation after the transition and the return of the analog station licenses. Toward the end of the period, there will be an increasing redundancy of basic content between the analog and digital stations as the Commission's simulcasting requirements become applicable. These two developments have broad

implications for the cable industry. To the extent that the Commission imposes a digital must carry requirement, cable operators could be required to carry double the amount of television stations, that will eventually carry identical content, while having to drop various and varied cable programming services where channel capacity is limited. The central question addressed in this section is how must carry should be initiated during the transition to digital television.

38. In previous comments, the cable industry, as well as cable equipment manufacturers, have argued that operators should not be required to carry both the analog television station and digital television station during the transition period. They assert that system and equipment requirements to meet an all channel carriage obligation would be prohibitively expensive. On the other hand, groups such as the Broadcasters and Electronics Industry Association (''EIA'') argue that a cable operator's must carry obligations extend to both the digital broadcast television transmission and the analog signal during the transition period. EIA argues that simultaneous retransmission will allow consumers to experience the qualitative difference between the two formats and promote digital broadcast television deployment. Some parties argued that mandatory carriage of additional digital television broadcast stations would also be contrary to the public interest because it may harm other video programmers. Viacom asserts that digital broadcast television must carry requirements should not operate in such a way as to preempt the carriage of some broadcast station transmissions in favor of one broadcast station's multiplexed program services. It refers to those situations where a cable operator's one-third channel capacity signal carriage requirement may be met through the carriage of certain analog and digital stations, while another broadcaster in the market, with a right of carriage, does not get carried. The Alliance for Community Media argues that public, educational, and governmental access channels, as well as noncommercial television stations, be given preference over additional channels incumbent broadcasters may want carried, in order to maintain a diverse range of noncommercial voices on cable television. Below, we seek comment on several carriage options that address the needs of the broadcasters and the concerns of the cable operators as well as the timing of mandatory digital broadcast signal carriage rules. For each of these options, we seek comment on how they comport with the existing language in the statute. We also ask whether there are any other options that would serve the public interest and also be consistent with the statute.

39. *The Immediate Carriage Proposal.* This first option would require all cable systems, regardless of channel capacity constraints, to carry, in addition to the existing analog television stations, all digital commercial television stations up to the one-third capacity limit and any additional digital noncommercial stations within the limits currently found in the statute. This approach would provide regulatory certainty to the television industry and provide assurance that investment in digital technology and programming will be fully realized. Moreover, digital broadcasters would be assured of reaching the audience they are licensed to serve. This option may also accelerate the transition period and thus, speed the recapture of the analog spectrum for auction by the Commission. At the same time, however, significant cable channel line-up disruptions may occur as cable operators, whose systems are channel-locked, would have to drop existing cable programming services to accommodate the carriage of digital television signals. This option may also result in cable rate increases, as explained more fully below, for digital broadcast services that the majority of subscribers will be unable to view, at least initially, because they did not make the significant investment in digital television sets necessary to receive such signals. We seek comment on this first proposal. Are there additional arguments for or against this option? For example, will broadcaster reliance on mandatory cable carriage discourage the development of antenna technology? Furthermore, would program diversity be adversely affected? How will this proposal, if implemented, alter retransmission consent negotiations? Would this approach discourage operators from investing in system upgrades? What effect would such a proposal have on television stations that have yet to build out their digital facilities? We also ask whether there should be exceptions to this proposal, perhaps for operators in large television markets where a high number of new digital television stations will commence operations at the same time.

40. If this option is adopted, we ask when the digital broadcast television must carry requirement should take effect. There are several possible triggering events that are based on either the digital broadcast television buildout schedule, by rule, or through the enforcement process: (1) when the first digital television station is broadcasting in a given television market; (2) when the majority of stations in a given television market are broadcasting in a digital mode; (3) in tandem with the buildout schedule as set forth in the *5th Report and Order* in MM Docket No. 87–268, 62 FR 26966 (May 16, 1997); (4) at the inception of the third must carry/retransmission consent election cycle on January 1, 2000; or (5) upon the Commission grant of a must carry complaint filed by the digital television broadcast station. We seek comment on which of these scenarios, or any other option, best reconciles the governmental interest in the rapid availability of digital broadcast television to cable subscribers with the other interests involved in this proceeding.

41. In addition, we seek comment on whether this proposal, as well as others that include a mandatory carriage requirement, is consistent with Congressional intent. As previously noted, the continued availability of free over-the-air television broadcast service was one of the primary reasons Congress required mandatory cable carriage. Similarly, one Congressional goal cited in the discussion of the transition to digital broadcasting was the future competitiveness of free over-the-air broadcasting. If the mandatory carriage provisions and the transition to digital television share a common purpose—the continued availability of free over-the-air television broadcast service—should some form of must carry be required during the transition to digital television in order to satisfy the common purpose of the mandatory carriage and digital television provisions?

42. *The System Upgrade Proposal.* An alternative proposal would require only higher channel capacity cable systems to add new digital television stations as they commence operations and initiate their digital over-the-air service during the transition period. As systems reach 750 MHz (approximately 120 analog six MHz channels), considerable flexibility will exist to add new television stations. For cable systems that are in the process of increasing their channel capacity through transmission plant upgrades, we would propose that new digital broadcast television stations must be carried by cable operators as they come on the air. We seek comment on this option in line with the questions delineated in the immediate carriage proposal, above. We are specifically interested in the impact this proposal would have on a cable operator's incentive to upgrade facilities and on facilities already upgraded. We seek

comment on the extent to which upgraded cable systems have no additional capacity to add new services.

43. To provide a concise response to the above proposal, we seek comment on whether 750 MHz is the proper cutoff for defining an upgraded system or should a lower number, such as 450 MHz (54 channels), be used instead. We note that approximately 19 percent of the current analog cable systems in the nation have 54 or more channels while the majority of cable systems, about 64 percent, have between 30–53 channels. According to one report, some two-thirds of cable systems are currently channel-locked, meaning that they cannot add additional services without deleting another service or through technical system enhancements. However, this situation may change in the future as cable systems upgrade their physical plant and add new channel capacity. Thus, we also ask commenters to provide information on the expected growth rate for cable channel capacity between now and 2003, when all digital television stations are required to commence operation. In addition, we seek comment about cable programmer plans to convert to digital and what additional carriage needs these programmers would have in the future.

44. *The Phase-In Proposal.* For cable systems that are not adding channel capacity or have only a limited ability to add channels and have no unoccupied channel capacity, a requirement to immediately commence carriage of all digital broadcast television stations when they come on-the-air would possibly be highly disruptive to cable subscribers, especially in those markets where a substantial number of stations are mandated to complete station construction by the same date. For example, stations affiliated with the top four networks in the top 30 markets are scheduled to have construction complete by November 1, 1999. The ten largest market have an average of 17 stations each with two markets having 22 stations. There are 43 markets that have ten or more stations. Under this option, we would require that all cable systems commence some carriage of digital broadcast stations as they come on-the-air, but that some limit on the number that must be added be included in the transitional rules to avoid substantial channel line-up disruptions. If this option is adopted, we would propose that three to five channels be added each year until all digital television stations are carried. These could be either must carry or retransmission consent stations. We seek comment on this schedule and its effects on the transition. We seek comment on whether there is another phase-in approach, such as adding three to five channels every six months, that would also further the rapid introduction of digital broadcast television while reducing, to the extent feasible, possible disruptions to the cable system's channel line-up. We also ask how we would determine which digital television stations have carriage priority on the cable system in cases where the quota has been satisfied.

45. *The Either-Or Proposal.* Another proposal would be to require broadcasters to choose mandatory carriage for either the analog signal or the digital transmission, but not both, during the early years of the transition period. In the year 2005, when the 100 percent simulcast rule goes into effect, the mandatory carriage option will default to the digital transmission. This option would avoid causing channel line-up disruptions but may have an adverse effect on the speed of the transition process. We seek comment on this approach and ask whether this proposal may be combined with any other transition option discussed. We also ask what effect this proposal would have on the economic viability of digital broadcasters, investment in digital broadcast technology, and on the sale of digital television receivers.

46. *The Equipment Penetration Proposal.* Under this option, we ask whether a carriage obligation should be triggered before any significant number of consumers have receivers or digital-to-analog converter boxes that give them the ability to access digital transmissions. For example, should carriage obligations commence when some percentage of the public, e.g., 5 percent or 10 percent, have invested in receiving equipment? Such a requirement would recognize that in the cable context, the addition of new digital broadcast television transmissions will likely result in the deletion or absence of carriage of other services. The possibility of such a substitution is inherent in the whole mandatory carriage policy, but the general assumption under the existing analog rules is that at least all subscribers will have access to the new transmission in question and not just those who have invested in additional equipment.

47. *The Deferral Proposal.* The sixth option is to defer the implementation of mandatory digital broadcast signal carriage rules for a certain period of time. One possible deferral date would be May 1, 2002. This would coincide with the date that stations not affiliated with ABC, CBS, NBC, and Fox as well as digital commercial television stations in markets 31–212, are required to initiate service. Waiting to issue regulations until this time has certain advantages. For example, it would allow cable operators and broadcasters to find a successful business model for digital television. A deferral would also allow time for voluntary negotiations on cable carriage issues between the broadcasting and cable industries to settle some of the matters involved. It would allow time for technology to progress and for digital television receivers to come down in price. We seek comment on this proposal and its advantages and disadvantages as well as its impact on the transition period.

48. *The No Must Carry Proposal.* The last option is that must carry does not apply at all for digital television stations during the transition period. Section 614(b)(4)(B) states that ''the Commission shall initiate a proceeding to establish any changes in the signal carriage requirements of cable television systems necessary to ensure cable carriage of such broadcast signals of local commercial television stations which *have been changed* to conform with such modified standards'' (emphasis added). NCTA argues that the phrase ''have been changed'' means that the television station's analog signal has ceased broadcasting and the station's digital signal has replaced it as the over the air service. Under this reading, digital broadcasters would not have must carry rights until the transition period is over. If this were the case, we would propose the following. For commercial television stations, retransmission consent would still apply. With regard to those commercial television stations that do not enforce their retransmission consent rights, or noncommercial television stations that lack retransmission consent rights, they are free to enter into voluntary carriage negotiations with cable operators. These broadcasters would be similarly situated with competing cable programming services in that they could pay to be placed on the cable system or negotiate other mutual beneficial arrangements with cable operators. We seek comment on this approach. We ask how this proposal would affect the economic viability of digital television stations as well as the rapid transition to DTV. Moreover, should we recommend to Congress that noncommercial television stations be vested with retransmission consent and program exclusivity rights in order to provide such entities with greater bargaining power vis-a-vis cable operators?

49. With regard to those options where a must carry requirement is suggested, we note that the one-third capacity limit set forth in Section 614(b)(1)(B), is still applicable. When the one-third capacity limit has been reached, Section 614(b)(2) provides that ''the cable operator shall have discretion in selecting which such stations shall be carried on its cable system.'' We believe that this statutory directive would continue to apply in the digital context, if we conclude that mandatory digital signal carriage is necessary. We seek comment on this interpretation. In the alternative, we ask whether it would be desirable to adopt carriage priority rules. Would it be useful to accord priority to stations based on when they commence digital television broadcasting as a way of encouraging stations to speed up the transition process? Should carriage priority be given to stations geographically closer to the operator's principal headend to support the principal of localism? Alternatively, should priority be given to television stations that are not affiliated with the top four networks as these were the stations most likely to have chosen the must carry option in the analog context and also have less bargaining power relative to cable operators?

50. We seek comment on whether digital broadcast television carriage requirements, during the transition and afterward, will impose unique burdens on small cable systems or small cable operators that warrant special consideration in the development of new digital broadcast signal carriage rules. The Broadcasters recognize that small cable systems may find it difficult to accommodate digital broadcast television signals. Therefore, they suggest that the Commission may consider adopting phase-in rules or policies for cable carriage of digital broadcast television signals but that such rules or policies should recognize cable's role in working with broadcasters to avail the public of the benefits of digital technology. Although small cable operators may be able to pass through a digital broadcast signal to subscribers, there still may be significant equipment costs and channel capacity loss involved in order for a cable operator to deliver digital broadcast television. Small cable operators may not be able to upgrade their systems, or invest in digital compression technology, due to financial constraints and thus, may delay their transition to digital. As such, these entities, that have been accorded special regulatory status by Congress and the Commission in other areas, such as rate regulation, may be the subjects of special treatment when it comes to the carriage of digital broadcast television transmissions.

51. We seek comment on how to define small systems and small cable operators in the context of digital must carry. We see alternative definitions to choose from: those found in the must carry provisions of the Act and those found in the rate regulation context. We seek comment on which definition furthers the transition to digital broadcast television while, at the same time, recognizes the unique circumstances of the small cable operator. Are there other definitions that we have not considered? As for relief, we ask, for example, whether the Commission should decide that as long as the small system or small operator carries all of the local analog television signals, it need not carry the digital television transmissions as well. Alternatively, we ask whether the Commission should allow small cable operators to file petitions for special relief requesting a waiver of any digital broadcast television carriage rule if financial hardship is demonstrated. With regard to retransmission consent and its effect on small cable operators, we seek comment on whether the Commission should prohibit tying arrangements where an operator must carry the broadcaster's digital signal as a precondition for carriage of the analog signal. We seek comment on the scope of our statutory authority to redefine small cable operators and small systems and provide them with special relief.

52. Section 653(c)(1) of the Act provides that any provision that applies to cable operators under Sections 614, 615 and 325, shall apply to open video system operators certified by the Commission. Section 653(c)(2)(A) provides that, in applying these provisions to open video system operators, the Commission ''shall, to the extent possible, impose obligations that are no greater or lesser'' than the obligations imposed on cable operators. The Commission, in implementing the statutory language, held that there are no public policy reasons to justify treating an open video system operator differently from a cable operator in the same local market for purposes of broadcast signal carriage. Thus, OVS operators generally have the same requirements for the carriage of local television stations as do cable operators except that these entities are under no obligation to place television stations on a basic service tier. OVS operators are also obligated to abide by Section 325 and the Commission's rules implementing retransmission consent. We seek comment on the impact digital must carry and retransmission consent will have on OVS operators and whether and how rules for these entities should be different than the rules for cable operators.

53. Sections 614 (a) and (h), and 615 (a) and (l) establish the qualifications for cable carriage eligibility as it pertains to full power commercial television stations (market based eligibility standards), low power commercial television stations (six statutory qualifications), and noncommercial television stations (mileage and technical based standards). At this time, we see no need to deviate from the existing eligibility requirements for these three categories of stations. We seek comment on this tentative conclusion.

54. The issue of over-the-air signal reception quality at the headend of the cable system is also involved in this discussion as it defines which digital television stations, from a technical perspective, are eligible for carriage. Section 614(h)(1)(B)(iii) states that a television station that does not deliver a good quality signal to the cable operator's headend, and does not agree to pay for the equipment necessary to improve the signal, is not qualified to assert its must carry rights. Under the current regime, television broadcast stations must deliver either a signal level of -45dBm for UHF signals or -49dBm for VHF signals at the input terminals of the signal processing equipment, to be considered eligible for carriage. We seek comment on how the Act's signal quality exception test applies to digital transmissions. We have previously stated that, in order to ease the transition, and to be considered to have complied with the construction schedule, a broadcaster only initially needs to emit a digital transmission strong enough to encompass its community of license. We ask how this policy may affect the carriage of the digital television transmission. We seek comment on whether the Commission's analog signal strength standards are relevant to digital broadcast television or new good quality signal parameters, which include normal system processing degradations and account for bit rate error, are necessary.

55. The language of Section 614(b)(4)(B) states that the Commission should initiate a proceeding to establish any changes in the signal carriage requirements of cable television systems are necessary ''to ensure cable carriage of such broadcast signals of local *commercial* television stations. . . .'' (emphasis added). The question here is

the nature and existence of carriage rights for noncommercial digital television stations, since they are not explicitly discussed in this section. We note that Section 615(a) of the Act states that ''each cable operator shall carry on the cable system of that cable operator, any qualified local noncommercial educational television station requesting carriage.'' APTS argues that this provision is broad enough to require cable operators to carry both the analog and digital signals of public television stations. We seek comment on the statutory language and on APTS' interpretation.

56. Section 614(b)(1)(B) provides that a cable operator, with more than 12 usable activated channels, shall not have to devote more than ''one-third of the aggregate number of usable activated channels'' to local commercial broadcast signal carriage purposes. Determining a cable operator's capacity when digital content is involved and therefore how many commercial television station signals must be carried, is thus an issue in this proceeding. The cable industry has commented that operators lack capacity to accommodate both the analog signal and digital transmission. Broadcasters, on the other hand, have asserted that cable operators are technically capable of fulfilling any digital broadcast television must carry requirement and that lack of capacity is a misleading argument. They state that one 6 MHz digital cable channel could carry at least 8 digitally compressed analog NTSC signals or two HDTV channels, or a compressed NTSC channel and 4 multicast SDTV channels. Thus, while the Act provides that a cable operator should not have to devote more than ''one-third of aggregate number of usable activated channels'' to local broadcast signal carriage purposes, there is some dispute as to how capacity should be defined in a digital environment.

57. Accordingly, we solicit comments on the definition of ''usable activated channels'' in the context of digital broadcast television carriage. Many cable operators now have, or soon will have, the technical ability to fit several analog programming services onto one 6 MHz channel. Thus, in answering this question, we ask how advances in signal compression technology affect the definition of capacity. We also ask whether the one-third channel capacity requirement for digital broadcast television carriage purposes means one-third of a cable operator's digital channel capacity or one-third of all 6 MHz blocks, including both the analog and digital channels.

58. We see three possible options in determining capacity: (1) each programming service counts as one channel; (2) each 6 MHz block of spectrum counts as one channel; or (3) the digital capacity should be by data throughput, i.e. bits per second of digital data. We seek comment on the benefits and drawbacks on each of these options. We also ask whether the Act permits the Commission to redefine the meaning of capacity in this context. We note, as discussed above, that the ability of cable operators to carry more than a single digital broadcast television signal in a 6 MHz channel is dependent on whether the transmission is carried in its original format or whether changes in format may be permitted, and ask commenters to address this distinction in discussing the capacity issue.

59. We seek quantified estimates and forecasts of usable channel capacity. Are there differences in channel capacity that are based on franchise requirements, patterns of ownership, geographic location, or other factors? What is the average number of channels dedicated to various categories of programming, such as pay-per-view, leased access, local and non-local broadcast channels, and others that would assist us in understanding the degree to which capacity is, and will be, available over the next two, five, eight years, or beyond? What methods are appropriate to forecast the comparison between usable channel capacity and potential broadcast needs, nationally, during the transition (or other appropriate timeframe)?

60. Section 614(b)(4)(A) of the Act, discussing the cable system's treatment and processing of analog broadcast station signals, provides that: ''The signals of local commercial television stations that a cable operator carries shall be carried without material degradation. The Commission shall adopt carriage standards to ensure that, to the extent technically feasible, the quality of the signal processing and carriage provided by a cable system for the carriage of local commercial television stations will be no less than that provided by the system for carriage of any other type of signal.''

61. In the context of digital broadcast signal carriage, this raises two quite distinct questions. First, to what extent should this preclude cable operators from altering the digital format of digital broadcast television signal when the transmission is processed at the system headend or in customer premises equipment, such as the set top box, that is part of the cable system or is attached to it? And second, regardless of the transmission format, what standards and measurement tools are available to address disputes relating to the quality of the digital broadcast television signal?

62. The first issue essentially has to do with tradeoffs between different modulation methods and transport specifications that may be optimized for different media and the savings involved in having a common receiver for signals or bitstreams received from different transmission paths. As described above, broadcasters are using 8 VSB while the cable industry has favored 64 or 256 QAM. The cable operators' selection of a transmission methodology other than 8 VSB reflect their ability to carry a higher data rate, and make more use of their capacity, than they would if they used the broadcast system.

63. In comments in the previous phase of this proceeding, the broadcasters argue that the material degradation mandate should be strictly applied so that each cable system must carry the digital broadcast television signal in its original over-the-air format so that the public can receive the full extent of the station's capabilities, including the station's full high definition capabilities.

64. The cable industry's concern in this area is that operators should be allowed to demodulate and repack the digital broadcast television signal into a higher bit-rate package because it would result in a more efficient use of cable network capacity than any broadcaster proposed engineering plan to merely pass-through the bitstream on an equivalent basis, i.e., a 6 MHz broadcast signal on a 6 MHz cable channel.

65. We recognize one important action that may constitute material degradation. It involves the cable operator's conversion of the broadcaster's digital transmission into another digital format, perhaps one with lower picture resolution. We seek comment on this possibility and whether such a conversion should be prohibited. Are there other degradation possibilities that we have not considered? Additionally, does the term ''material'' in the statute suggest that some ''de minimis'' amount of degradation is permissible?

66. Aside from the matters discussed above, questions arise as to what standards and measurement techniques the Commission should employ where specific disputes as to digital broadcast signal quality develop. Picture and sound quality issues in a digital environment implicate standards and measurement techniques that are quite different than those that arise in the analog environment. In the analog

situation, issues involving signal strength, signal to noise ratios, and ghosting are the focus of concern. In the digital situation, picture resolution is still a concern but bit error rates and data throughput are also relevant. Moreover, the technical standards that are employed to evaluate cable analog picture quality were adopted and refined over the course of many decades. We tentatively conclude that it would be premature to attempt to replicate parallel digital standards before digital broadcasting has even commenced. In this regard, we seek suggestions for any standards that may be used in addressing signal degradation issues. How, and where, should degradation be measured? For example, should it be measured before the signal is processed by the set top box, if such a device is involved, or should it be measured at the input of the digital receiver? We recognize that, under the Act, the signal quality of a local commercial television station carried by a cable system will be no less than that provided by the system for carriage of any other type of signal. Does this mean that if an operator carried a cable programming service, such as HBO, in the 1080i HDTV format, then it must carry, without material degradation, all local commercial television stations that also provide 1080i HDTV signals? Would such a channel comparison test be a viable degradation measurement technique, at least for HDTV picture quality? Alternatively, we ask whether degradation should be gauged through the use of bit error rate and signal-to-noise ratio measurements. In other words, it may be that as long as the bit error rate is minimal, then any conversion process cannot be said to materially degrade the signal.

67. Section 614(b)(5) of the Communications Act provides that ''a cable operator shall not be required to carry the signal of any local commercial television station that substantially duplicates the signal of another local television station which is carried on the cable system * * *.'' Parallel provisions also apply to the carriage of noncommercial stations. Congress stated that these provisions were intended to preserve the cable operator's editorial discretion while ensuring that the public has access to diverse local signals. Because it is likely, and indeed mandated, that at some point in the transition process there be a duplication of program content between analog and digital broadcast transmissions, an integral part of the overall carriage question is the issue of how to treat duplicative programming.

68. We see alternative approaches to defining ''duplication'' in the digital age. The first option would be modeled after the current approach for analog signal duplication and focus on the stations' program content so that the nonduplication provision would apply even though the signals were transmitted in different formats. In the analog signal context, the Commission has determined that two commercial television stations will be considered to substantially duplicate each other ''if they simultaneously broadcast identical programming for more than 50 percent of the broadcast week.'' Thus, if a broadcaster aired substantially the same material over its digital station, as it does over its analog station, the operator would not be obligated to carry both. Second, because they each use different transmission formats, the analog signal and digital bitstream could be considered not duplicative even if they contain identical program content. This would be most clearly the case where one of the broadcasts was in a high definition format and the other was not. Third, the substantial duplication requirement may not apply in the digital world because Congress may have intended that the provision be used where there were two different television stations involved, not the same licensee transmitting programming in both an analog and digital format. We seek comment on each of these possibilities. In answering this inquiry, we seek comment on the meaning of the term ''duplicative'' when applied to digital broadcast television signals. For example, should a multiplexed broadcast signal that includes cable programming that is already carried by the operator, be considered duplicative? Moreover, how should the term ''station'' be defined in this context? Does the term ''another'' in the statute suggest that the signals in question must come from two different stations, not the same one? We also seek comment on whether a definition that requires carriage of identical analog and digital signals would result in other commercial broadcast programming not being carried because the one-third channel capacity has been reached.

69. Section 614(b)(3)(A) of the Act requires cable operators to carry the ''primary video'' of each of the local commercial television stations carried on the cable system. A parallel provision exists for noncommercial educational television stations. The general question here is how to define ''primary video'' during the transition period when both an analog and digital signal will be broadcast. Could the analog signal be considered primary but not the digital signal since the former can be received by all cable subscribers with analog television sets? Moreover, broadcasters, under the digital television rules, have flexibility in choosing to broadcast either high definition or multiple standard definition television transmissions, or a mixture of both, over the course of a broadcast day. Thus, how should ''primary video'' be defined in the context of a digital service that broadcasts multiple streams of video programming. If the primary video includes less than all of the streams of programming broadcast, we seek comment on which video programming services provided by a licensee should be considered primary and should be entitled to carriage. Should the definition be flexible, allowing the broadcaster to alternate which of its transmissions would be considered primary over time? How do the answers to these questions reflect on the development of both digital broadcasting and on the services provided and rates charged by cable operators?

70. Section 336 of the Act provides that ''no ancillary or supplementary service shall have any right to carriage under section 614 or 615.'' Section 614(b)(3) of the Act requires cable operators to carry ''to the extent technically feasible, program-related material carried in the vertical blanking interval or on subcarriers'' but states that ''[r]etransmission of other material in the vertical blanking interval or other nonprogram-related material (including teletext and other subscription and advertiser-supported information services) shall be at the discretion of the cable operator.'' Our task here is to define what ''ancillary or supplementary'' mean in the context of digital broadcast television carriage. We seek comment on possible definitions that are consistent with the language of Section 614(b)(3).

71. We note that Section 336 of the 1996 Act also states that ''no ancillary or supplementary service shall * * * be deemed a multichannel video programming distributor for purposes of section 628.'' Section 628 contains the program access requirements pursuant to which multichannel video programming distributors have rights to demand access to certain satellite delivered cable programming in which a cable operator has an attributable interest. We seek comment on whether the Act's language provides any insight as to the ancillary or supplementary service definition.

72. Section 615(d) and 614(c)(2) of the Act provides that a cable operator required to add the signals of qualified local noncommercial educational stations and qualified low power television stations, respectively, may do so by placing such additional stations on unused public, educational or governmental (''PEG'') channels not in use for their designated purposes, subject to the approval of franchising authorities. Pursuant to Section 611 of the Act, the franchising authority determines how much of a cable operator's channel capacity, if any, will be set aside for PEG use. The Commission, when implementing the analog must carry rules, declined to adopt stringent requirements regarding the use of PEG channels for must carry purposes because we believed that these matters are more appropriately resolved by individual franchising authorities. We seek comment on whether the DTV signals of NCE stations and LPTV stations should be allowed on PEG channels under the same framework accorded analog television signals.

73. Section 614(b)(7) provides that all commercial must-carry signals shall be provided to every subscriber of a cable system and shall be viewable on all television receivers of subscribers that are connected by the cable operator or for which the cable operator provides a connection. Section 615(h) provides that noncommercial educational stations, that are entitled to carriage, shall be ''available to every subscriber as part of the cable system's lowest price service tier that includes the retransmission of local commercial television broadcast signals.'' We seek comment on whether the operator must place the broadcaster's digital transmissions on the same basic tier where the analog channels are found or whether a separate digital basic service tier could be established that would be available only to subscribers with the capacity to view the contents of the digital broadcast signals.

74. During the transition period, there may be situations where the carriage of digital broadcast signals could properly be associated with the carriage of digital cable channels because of their similar digital picture or interactive characteristics, or may otherwise be provided only to subscribers capable of using digital video. By associating the digital broadcast and cable channels in terms of tier placement, subscribers that are equipped to receive digital signals will be assured of receiving digital broadcast signals and subscribers not so equipped would not be obliged to subscribe to services that they are not equipped to receive. We seek comment on this general concept or on other means whereby subscribers' reception capabilities could be matched with the tier package they are required by regulation to receive. Do we have the authority to implement such a proposal? Moreover, should there be parallel tier placement rules, one for analog cable systems that do not offer digital services, and one for cable systems that do offer digital services? We also seek comment on the legal issues that might be associated with having more than a single basic tier in order to accommodate the carriage of digital broadcast signals. Once the transition period ends, our tentative view is that the basic service tier would be required to include, at a minimum, digital broadcast signals and public, educational, and governmental access channels. This will satisfy the statute's directive of assuring that all cable subscribers are able to view broadcast material on the lowest priced tier available.

75. Also pursuant to Section 614(b)(7), if a cable operator authorizes subscribers to install additional receiver connections, but does not provide the subscriber with such connections, the operator shall notify such subscribers of all broadcast stations carried on the cable system which cannot be viewed via cable without a converter box. In such cases, the cable operator shall offer to sell or lease a converter box to such subscribers at rates in accordance with the standards established by the Commission pursuant to Section 623(b)(3). We seek comment on the application of this provision to the carriage of digital broadcast television stations. We specifically ask whether this provision would require cable operators to offer converter boxes to every subscriber if digital broadcast television stations cannot be received without some set-top device facilitating reception of the stations' transmissions.

76. In addition to tier position requirements, we also need to determine the specific channel rights digital broadcast television stations should have. Section 614(b)(6) provides for four channel positioning options for commercial television stations: (1) The channel number on which the station broadcasts over-the-air; (2) the channel on which the station was carried on July 19, 1985; (3) the channel on which it was carried on January 1, 1992; and (4) any other channel number as is mutually agreed upon by the station and the cable operator. Noncommercial television stations have three channel positioning options under Section 615(g)(5): (1) the channel number on which the station is broadcast over-the-air; (2) the channel on which the station was carried on July 19, 1985; and (3) any other channel number as is mutually agreed upon by the station and the cable operator. We seek comment on which of the statutory options remain applicable in a digital environment. Commenters should also focus their attention on the carriage of multiple SDTV programming streams and describe how channel positioning should vest in this situation.

77. In earlier comments, the Broadcasters maintain that television stations should have the option of electing the channel on which the digital broadcast television signal is carried, so that each station would be able to retain its channel identity from cable system to cable system, and so that the analog and digital channels be found together on the cable system. They also maintain that the Congressional intent behind the Act's channel positioning mandate, i.e., to prevent the anticompetitive conduct of the cable operator placing the television station on an undesirable, higher cable channel, remains valid. We seek comment on this proposal.

78. The new digital broadcast television table of allotments typically does not correspond to a television station's analog channel number but the advent of advanced programming retrieval systems and other channel selection devices may alleviate the need for specific channel positioning requirements as subscribers will be able to locate a television station with little degree of difficulty. Additionally, channel mapping protocols (''PSIP'') have been developed that will technically link the digital channel number with that assigned to the analog channel. Given these developments, we ask whether the Commission should refrain from promulgating new channel positioning requirements and allow technology, as discussed above, to resolve the matter. We seek comment on the extent to which PSIP is the subject of voluntary standards setting processes in the cable, broadcast, and consumer electronics industries and what the timing and outcome of such voluntary processes are likely to be. Moreover, recognizing that channel positioning is important to ensure the successful introduction of an individual digital television station on a cable system with dozens of other channels, we ask whether deference to technology to resolve the positioning issues here will be the appropriate solution. We also seek comment on whether this option would be consistent with the statutory channel positioning requirements.

79. Another alternative would be to allow the operator to place the digital television transmission on any cable channel of its choice, subject to certain conditions, such as: (1) That the digital channel identification or PSIP information be clearly available for use by the subscriber's receiver; (2) that all analog and digital channel placement decisions must comply with tier placement requirements; and (3) once a station has been assigned a channel position, the cable operator may not move it from that position for at least three years except where a move is authorized by the broadcaster. These general requirements would give the operator greater leeway in configuring its channel line-up. We seek comment on this particular proposal and ask commenters to focus on the legal, technical, and economic issues involved.

80. We also seek comment on whether advanced programming retrieval systems and other channel selection devices provided by cable operators which, in effect, filter and prioritize programming, present another series of challenges similar to those that gave rise to Congress' channel positioning requirements. If so, we ask whether any rules are necessary to ensure fair competition between electronic programming guides controlled by cable operators and those that are controlled by broadcasters.

81. Television stations have carriage rights throughout the market to which they are assigned. Pursuant to Section 614(h)(1)(C), at the request of either a broadcaster or a cable operator, the Commission may, with respect to a particular television broadcast station, include additional communities within its television market or exclude communities from such station's television market to better effectuate the purposes of the Act's must carry provisions. The Commission's inclusion of additional communities within a station's ADI imposes new must carry requirements on cable operators subject to the modification request while the grant to exclude communities from a station's ADI removes a cable operator's obligation to carry a certain station's signal. In considering market modification requests, the Act provides that the Commission shall afford particular attention ''to the value of localism'' by taking into account such factors as—(1) Whether the station, or other stations located in the same area, have been historically carried on the cable system or systems within such community; (2) whether the television station provides coverage or other local service to such community; (3) whether any other television station that is eligible to be carried by a cable system in such community in fulfillment of the requirements of this section provides news coverage of issues of concern to such community or provides carriage or coverage of sporting and other events of interest to the community; and (4) evidence of viewing patterns in cable and noncable households within the areas served by the cable system or systems in such community. We seek comment on whether any change to the market modification process is warranted to accommodate the difference between analog and digital broadcasting and the fact that the signals in question have neither a history of carriage nor measured audience. We also seek comment on whether there are alternative means to resolve market structure issues for new digital broadcast television stations.

82. We also inquire as to whether changes in signal strength and Grade B contour coverage, because of new digital television station channel assignments and power limits, will result in different carriage obligations for cable operators. We focus on those instances where the Commission has redefined an analog station's television market based, in part, on Grade B contour coverage and has either granted or denied a must carry complaint based on a analog station's signal strength measurements. Should the digital television station's technical characteristics have any bearing on the analog television station's market area, or vice versa?

83. We previously held that television markets for must carry eligibility purposes are to be determined by Arbitron's ADIs through December 31, 1999, the end of the second must carry/retransmission consent election cycle, and by Nielsen's DMAs for all election cycles thereafter. Television markets for digital allocation purposes, however, are currently defined by DMAs rather than ADIs. Noting that digital broadcast television service in certain markets is to be introduced months earlier than the switch to DMAs, the situation now exists where carriage obligations commence under one set of standards (ADIs) and shortly thereafter shift to a new set of market definitions (DMAs). This two-step carriage process is likely to cause channel line-up disruptions and subscriber confusion. We seek comment on this situation and the steps the Commission should take to lessen the possibility of channel line-up disruptions.

84. Under current Commission rules, whenever a television station believes that a cable operator has failed to meet its must carry obligations, the station may file a complaint with the Commission. Section 614(d)(3) requires the Commission to adjudicate a must carry complaint within 120 days from the date it is filed. The Commission may grant the complaint and order the cable operator to carry the station or it may dismiss the complaint if it is determined that the cable operator has fully met its must carry obligations with regard to that station. We seek comment on whether the complaint process now set forth in part 76 is appropriate in the context of digital broadcasting stations. We specifically ask whether the Commission's rules need to be modified to recognize the broadcaster's transmission of programming streams rather than entire channels. We welcome any suggestions for streamlining the complaint process that would expedite the Commission's adjudication of the requested action.

85. Various means of providing cable subscribers access to over-the-air broadcast signals have been explored in years past. One recognized option was to require cable operators to provide subscribers with an input selector switch (commonly referred to as an A/B switch) that switches television receiver inputs from cable to an over-the-air antenna and to require cable system operators to educate subscribers as to the use of this device. Congress, however, subsequently abolished the Commission's A/B switch requirements when it passed the Cable Act of 1992, stating affirmatively that no cable operator should be required to provide or make available such a switch. It stated that an A/B switch is not an enduring or feasible method for the reception of television signals. In light of Section 614(b)(4)(B), and Congressional statements about the Commission's broad role in examining the digital broadcast television carriage issue, we ask whether we have the authority to address A/B switch issues, notwithstanding the existing prohibition.

86. The availability of an input selector switch, in conjunction with television antennas, could be a means of increasing cable subscriber access to DTV signals, including ancillary and supplementary services that are not entitled to cable carriage. That does not necessarily mean that a regulatory requirement mandating the inclusion of such a device is needed. The basic hardware involved is readily available from retail outlets. Moreover, a switch mechanism is now incorporated into many television receivers (as well as into videotape recorders and DBS receivers) and new digital television receivers may have multiple input

possibilities fully selectable from remote control devices. We seek comment on these views and specifically ask whether A/B switches have evolved, from a technical perspective, in the last six years. Are they easier to use than they were when Congress made its findings for the 1992 Cable Act? For example, has widespread use of remote control technology rather than manual operation made the use of A/B switches more effective? Are there widely accepted industry practices with regard to the manufacturing and inclusion of A/B switches? What plans, if any, do manufacturers have to incorporate electronic or diode-based A/B switches into television receivers and other devices? We also ask whether there are any actions that the Commission needs to take to make sure that subscribers have access to digital television signals that are not carried. Are there situations where regulatory intervention would be useful either to facilitate access as a technical matter or to overcome any residual ''gatekeeper'' control that cable system operators may retain with respect to such devices? Is the restriction in Section 614(b)(4)(B) on requirements applicable to cable operators equally applicable to requirements imposed on receiver manufacturers? Could the Commission, for example, require that all digital television equipment, not supplied by the cable operator, be manufactured with an A/B switch? We also seek comment on whether improvements in A/B switch technology and its availability undercut the need for mandatory digital broadcast signal carriage, if the justification for such a rule is to preserve free over the air broadcast television.

87. As the above discussion indicates, the use and usefulness of antennas, both roof-top and indoor, is central to this proceeding. It appears likely that antennas will play a significant role in the reception of DTV. In this context, many questions arise about the efficacy of antennas for over-the-air reception of DTV and their use by cable and non-cable homes, alike. For example, do indoor antennas work better with digital television receivers than with analog receivers? How do weather conditions affect DTV television reception when an antenna is used? Are roof top antennas an economically efficient alternative to cable for the reception of DTV signals? Should the Commission encourage antenna technology in order to enhance the use of the valuable spectrum broadcasters use? How does the availability of better antennas affect the necessity of mandatory digital broadcast signal carriage rules?

## V. Impact on Other Rules

88. Digital broadcast signal carriage also has potential consequences for the cable television rate regulation process. Both jurisdictional and substantive rate level issues are involved. One of the issues addressed in this proceeding has to do with where, in terms of tier location, digital broadcast television signals would be placed on the cable systems involved. The answer to this question has jurisdictional consequences for the rate regulation process and substantive consequences in terms of the rate levels permitted by the Commission's rules. With respect to the jurisdictional question, rates for the basic service tier (''BST'') are subject to local franchise authority regulation and upper tier or cable programming service tiers (''CPST'') are subject to Commission regulation on a complaint basis.

89. With respect to the substance of rate regulation, under the benchmark rate rules, once initial rates are established, cable operators are permitted to adjust their rates for changes in the number of regulated channels. Cable operators seeking to adjust regulated rates to reflect these changes had to be prepared to justify rate increases using the applicable forms. In justifying rate adjustments, operators use a channel adjustment methodology provided for under the rules. The rules also provide an adjustment process when channels are dropped and when channels are moved between tiers. An alternative ''cost of service'' rate regulation process also is available to cable system operators that believe the benchmark process fails to adequately account for their costs. There are also cost pass-through mechanisms for defined categories of ''external'' costs, including franchise fees; certain local franchise costs; programming; retransmission consent; and copyright fees. Costs associated with compliance with mandatory broadcast signal carriage rules are not now included as external costs. Customer equipment that is used to receive the basic service tier, and any other service received with the same equipment, is subject to franchise authority jurisdiction under a separate set of rules. Additionally, subject to a number of conditions, cable operators may establish a category of cable programming service tiers, referred to as a ''new product tiers,'' that may be offered at prices they elect. New product tiers consist of programming not previously carried by the operator that is optional to subscribers and that is available without subscribing to any other cable programming service tier. It appears that most cable system operators that are adding separate tiers of digital cable programming may be doing so under the ''new product tier'' provisions of the rules.

90. In our effort to establish a complete record in this area, and make an informed policy decision with regard to rate regulation, we seek comment on what, if any, changes in these rules may be necessary or desirable. We specifically seek comment on the processes and costs of delivering digital broadcast television to cable subscribers. This part of the inquiry is important because some operators, such as Intermedia, have said that mandating carriage of all digital broadcast television transmissions ''will financially devastate many cable operators.'' Broadcasters acknowledge that the transition to digital will be expensive for all parties involved. We note that the broadcaster is currently required to pay for the costs of delivering its analog signal to the cable operator's headend. Cable subscribers also have an interest given that rates may change if digital broadcast television stations must be carried by cable systems, and the Commission has a statutory responsibility to ensure reasonable rates to these subscribers. We also seek comment on whether existing rate levels already allow operators to recover the costs involved in any upgrading of their systems necessary for digital broadcast signal carriage.

91. The ''costs of carriage'' issue has been generally addressed in prior comments. The broadcasters, for example, assert that they should not have to pay for cable upgrades in return for mandatory carriage. They state that cable operators will know what technical compatibility issues lie ahead and thus, any expenses incurred to ensure compatibility should be borne by those systems. The cable operators, on the other hand, argue that if they are required to carry any digital broadcast services before a cable system has become digital-capable, the cost to transmit such services should be borne by the broadcast station. We ask that commenters refresh the record on the specific technical modifications needed to enable cable systems to deliver digital broadcast television to subscribers. We ask what the costs will be for such modifications, particularly for new headend equipment and the delivery and installation of new digital set top boxes, if they are needed to comply with any carriage requirement. We also ask about the costs related to cable tower modifications as it may be necessary to

add additional digital broadcast television receiving antennas at the headend. To what extent should these additional costs be the responsibility of the broadcaster seeking carriage? We also seek comment on whether digital cable programming services are paying, or plan to pay, cable operator digital equipment costs as one way of obtaining carriage on the cable system. We ask if the advent of digital compression technology has, or will, lessen the cable operator's costs in bringing digital broadcast television signals into the home.

92. Cable operators are required to notify subscribers of any changes in rates, programming services or channel positions. When the change involves the addition or deletion of channels, each channel added or deleted must be separately identified. We seek comment on how any new digital broadcast television carriage requirements will affect the notification provisions described above. For example, if an existing broadcaster switches to an HDTV format, would the cable operator be required to notify subscribers of the change? Moreover, if a television broadcasts multiple streams of programming, must the cable operator explain the broadcaster's offerings on each of these streams? We tentatively conclude that a cable operator would be required to notify subscribers whenever a new digital television transmission is added to the operator's channel line-up because these digital broadcast television substitutions could be considered new services affecting subscribers equipment and subscription choices. We also tentatively conclude that while the operator should state that multiple programming streams are available, it would be under no obligation to explain to subscribers the material found in each and every SDTV programming stream, if such material is carried, as such detail is not required by either the Act or our rules.

93. The Commission's program exclusivity rules, as implemented in §§ 76.92 and 76.151, protect exclusive distribution rights afforded to network programming and syndicated programming. Television broadcast station licensees are entitled to protect those kinds of programs for which they have contracted in a particular market by exercising blackout rights against distant television broadcast stations carried on cable systems that serve more than 1000 subscribers. Stations may assert their rights regardless of whether their signals are carried on the cable system in question.

94. We seek comment on how the transition to digital television may affect these rules. We specifically ask how SDTV multiplexing impacts these rules and whether the cable operator will be able to accommodate such black-out requests on various programming streams. Finally, we ask whether these rules are applicable in the digital age, with or without must carry, and whether it would be possible to repeal these rules and instead rely on the retransmission consent provisions of Section 325 of the Act to protect the rights in question. Section 325 generally provides that distant stations may not be carried without the permission of the station involved. To the extent digital broadcast television stations will need to make new arrangements for programming, it may be possible for the rights now protected by the rules to be protected through private contractual relationships. A broadcaster, for example, could require a cable operator to blackout certain programming and monetary penalties could arise if the operator does not comply with the terms of the contract. This may be a more effective method of enforcing blackout rights than relying on the Commission's current complaint process. The rules in question, we note, were adopted prior to the changes in Section 325 that include the retransmission consent requirement.

95. The Commission's cable television broadcast signals carriage rules and the copyright laws, through reference to the Commission's rules, contain a number of distinctions in their application based on whether a broadcast signal is ''local'' to the cable community. One measure of whether a station's signal is ''local'' involves using actual over-the-air viewership in the community as the standard. This ''significantly viewed'' concept is defined in § 76.5(i) of the rules and is applied in the contexts of syndicated exclusivity, sports broadcast, network nonduplication, and, through incorporation by reference, to the compulsory copyright licensing process. The significant viewing standard supplements the other ''local'' station definitions by permitting stations to be considered local both within their Grade B contours and outside of their Grade B contours and outside of their ADI or DMA-defined economic market areas based on viewing surveys that directly demonstrate that over-the-air viewers have access to the signals in question.

96. Because digital broadcast television stations will not, in the early stages of their deployment, have significant over-the-air audience, we seek comment on methods to address the kinds of issues that the significant viewing standard addresses in the analog environment. Should, for example, a new measure be developed that measures viewing in places that are equipped with digital receivers? Or should the ''significant viewing'' status of analog stations be transferred to their digital replacements. It is our initial view that such transfer of rights may be the most efficient and equitable way to proceed based on the costs and problems associated with taking new measurements.

97. We recognize that cable operators are frequently dependent on cable television relay service (''CARS'') stations to relay broadcast television signals. CARS stations distribute signals to microwave hubs where it may be physically impossible or too expensive to run actual cable wire. CARS stations are not used to distribute programming directly to subscribers. We seek comment on whether the introduction of digital broadcast television impacts CARS, and, if so, how.

## VI. Procedural Matters

98. *Ex Parte Rules.* This proceeding will be treated as a ''permit-but-disclose'' proceeding subject to the ''permit-but-disclose'' requirements under 47 CFR 1.1206(b), as revised. Ex parte presentations are permissible if disclosed in accordance with Commission rules, except during the Sunshine Agenda period when presentations, ex parte or otherwise, are generally prohibited. Persons making oral ex parte presentations are reminded that a memorandum summarizing a presentation must contain a summary of the substance of the presentation and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. *See* 47 CFR 1.1206(b)(2), as revised. Additional rules pertaining to oral and written presentations are set forth in 1.1206(b).

99. *Filing of Comments and Reply Comments.* Pursuant to applicable procedures set forth in 47 CFR 1.415 and 1.419, interested parties may file comments on or before September 17, 1998 and reply comments on or before October 30, 1998. To file formally in this proceeding, you must file an original plus four copies of all comments and reply comments. If you want each Commissioner to receive a personal copy of your comments and reply comments, you must file an original plus nine copies. You should send comments and reply comments to Office of the Secretary, Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC

Reference Center, Room 239, Federal Communications Commission, 1919 M Street N.W., Washington D.C. 20554. The Cable Services Bureau contact for this proceeding is Ben Golant at 202–418–7111 or bgolant@fcc.gov.

100. Written comments must be submitted by the Office of Management and Budget (''OMB'') on the proposed information collections on or before September 17, 1998. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 234, 1919 M Street, N.W., Washington, DC 20554, or via the Internet to jboley@fcc.gov and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725—17th Street, N.W., Washington, DC 20503 or via the Internet to fain__t@al.eop.gov.

101. Parties are also asked to submit comments and reply comments on diskette, where possible. Such diskette submissions would be in addition to, and not a substitute for, the formal filing requirements addressed above. Parties submitting diskettes should submit them to Ben Golant of the Cable Services Bureau, 2033 M Street N.W., Room 703B, Washington, D.C. 20554. Such a submission should be on a 3.5 inch diskette formatted in an IBM compatible form using MS DOS 5.0 and WordPerfect 5.1 software. The diskette should be submitted in ''read only'' mode. The diskette should be clearly labelled with the party's name, proceeding, type of pleading (comments or reply comments), and date of submission. The diskette should be accompanied by a cover letter.

102. *Initial Regulatory Flexibility Act Analysis.* As required by the Regulatory Flexibility Act (''RFA''), the Commission has prepared this present Initial Regulatory Flexibility Analysis (''IRFA'') of the possible significant economic impact on small entities by the policies and rules proposed in this NPRM. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the NPRM provided above. The Commission will send a copy of the NPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

103. Need for, and Objectives of, the Proposed Rule Changes. This NPRM seeks comment on several issues relating to the carriage of digital television broadcast stations. The objective of the NPRM is to propose broadcast signal carriage policy alternatives during the transition period, examine the changes in the Commission's current broadcast signal carriage rules that may be necessary in the digital age, and to ensure compatibility between digital broadcast television, cable systems, and related equipment.

104. Legal Basis. The authority for the action proposed in this rulemaking is contained in Sections 1, 4(i) and (j), 325, 336, 614, and 615 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i) and (j), 325, 336, 534, and 535.

105. Description and Estimate of the Number of Small Entities Impacted. The IRFA directs the Commission to provide a description of and, where feasible, an estimate of the number of small entities that will be affected by the proposed rules. The IRFA defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small business concern'' under Section 3 of the Small Business Act. Under the Small Business Act, a small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (''SBA''). The rules we propose in this NPRM will affect cable operators, OVS operators, cable programmers, and television station licensees.

106. Small MVPDs. SBA has developed a definition of small entities for cable and other pay television services, which includes all such companies generating $11 million or less in annual receipts. This definition includes cable system operators, closed circuit television services, direct broadcast satellite services, multipoint distribution systems, satellite master antenna systems and subscription television services. According to the Census Bureau data from 1992, there were 1,758 total cable and other pay television services and 1,423 had less than $11 million in revenue. We address below each service individually to provide a more precise estimate of small entities.

107. Cable Systems. The Commission has developed, with SBA's approval, our own definition of a small cable system operator for the purposes of rate regulation. Under the Commission's rules, a ''small cable company'' is one serving fewer than 400,000 subscribers nationwide. Based on our most recent information, we estimate that there were 1439 cable operators that qualified as small cable companies at the end of 1995. Since then, some of those companies may have grown to serve over 400,000 subscribers, and others may have been involved in transactions that caused them to be combined with other cable operators. Consequently, we estimate that there are fewer than 1439 small entity cable system operators that may be affected by the decisions and rules proposed in this NPRM.

108. The Communications Act also contains a definition of a small cable system operator, which is ''a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1% of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000.'' The Commission has determined that there are 61,700,000 subscribers in the United States. Therefore, an operator serving fewer than 617,000 subscribers shall be deemed a small operator, if its annual revenues, when combined with the total annual revenues of all of its affiliates, do not exceed $250 million in the aggregate. Based on available data, we find that the number of cable operators serving 617,000 subscribers or less totals approximately 1450. Although it seems certain that some of these cable system operators are affiliated with entities whose gross annual revenues exceed $250,000,000, we are unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act.

109. Open Video System (''OVS''). The Commission has certified eleven OVS operators. Of these eleven, only two are providing service. Bell Atlantic received approval for its certification to convert its Dover, New Jersey Video Dialtone (''VDT'') system to OVS. Affiliates of Residential Communications Network, Inc. (''RCN'') received approval to operate OVS systems in New York City and the Boston area. Bell Atlantic and RCN have sufficient revenues to assure us that they do not qualify as small business entities. Little financial information is available for the other entities authorized to provide OVS that are not yet operational. We believe that one OVS licensee may qualify as a small business concern. Given that other entities have been authorized to provide OVS service but have not yet begun to generate revenues, we conclude that at least some of the OVS operators qualify as small entities.

110. Program Producers and Distributors. The Commission has not developed a definition of small entities applicable to producers or distributors of cable television programs. Therefore, we will use the SBA classifications of

Motion Picture and Video Tape Production (SIC 7812), Motion Picture and Video Tape Distribution (SIC 7822), and Theatrical Producers (Except Motion Pictures) and Miscellaneous Theatrical Services (SIC 7922). These SBA definitions provide that a small entity in the cable television programming industry is an entity with $21.5 million or less in annual receipts for SIC 7812 and SIC 7822, and $5 million or less in annual receipts for SIC 7922. Census Bureau data indicate the following: (a) there were 7,265 firms in the United States classified as Motion Picture and Video Production (SIC 7812), and that 6,987 of these firms had $16.999 million or less in annual receipts and 7,002 of these firms had $24.999 million or less in annual receipts; (b) there were 1,139 firms classified as Motion Picture and Video Tape Distribution (SIC 7822), and 1007 of these firms had $16.999 million or less in annual receipts and 1013 of these firms had $24.999 million or less in annual receipts; and (c) there were 5,671 firms in the United States classified as Theatrical Producers and Services (SIC 7922), and 5627 of these firms had $4.999 million or less in annual receipts.

111. Each of these SIC categories is very broad and includes firms that may be engaged in various industries, including cable programming. Specific figures are not available regarding how many of these firms exclusively produce and/or distribute programming for cable television or how many are independently owned and operated. Thus, we estimate that our rules may affect approximately 6,987 small entities primarily engaged in the production and distribution of taped cable television programs and 5,627 small producers of live programs that may be affected by the rules adopted in this proceeding.

112. Television Stations. The proposed rules and policies will apply to television broadcasting licensees, and potential licensees of television service. The Small Business Administration defines a television broadcasting station that has no more than $10.5 million in annual receipts as a small business. Television broadcasting stations consist of establishments primarily engaged in broadcasting visual programs by television to the public, except cable and other pay television services. Included in this industry are commercial, religious, educational, and other television stations. Also included are establishments primarily engaged in television broadcasting and which produce taped television program materials. Separate establishments primarily engaged in producing taped television program materials are classified under another SIC number. There were 1,509 television stations operating in the nation in 1992. That number has remained fairly constant as indicated by the approximately 1,579 operating full power television broadcasting stations in the nation as of May 31, 1998. In addition, as of October 31, 1997 , there were 1,880 LPTV stations that may also be affected by our rules. For 1992 the number of television stations that produced less than $10.0 million in revenue was 1,155 establishments.

113. Thus, the proposed rules will affect many of the approximately 1,579 television stations; approximately 1,200 of those stations are considered small businesses. These estimates may overstate the number of small entities since the revenue figures on which they are based do not include or aggregate revenues from non-television affiliated companies.

114. In addition to owners of operating television stations, any entity who seeks or desires to obtain a television broadcast license may be affected by the proposals contained in this item. The number of entities that may seek to obtain a television broadcast license is unknown. We invite comment as to such number.

115. Small Manufacturers. The SBA has developed definitions of small entity for manufacturers of household audio and video equipment (SIC 3651) and for radio and television broadcasting and communications equipment (SIC 3663). In each case, the definition includes all such companies employing 750 or fewer employees. Census Bureau data indicates that there are 858 U.S. firms that manufacture radio and television broadcasting and communications equipment, and that 778 of these firms have fewer than 750 employees and would be classified as small entities.

116. Electronic Equipment Manufacturers. The Commission has not developed a definition of small entities applicable to manufacturers of electronic equipment. Therefore, we will use the SBA definition of manufacturers of Radio and Television Broadcasting and Communications Equipment. According to the SBA's regulations, a TV equipment manufacturer must have 750 or fewer employees in order to qualify as a small business concern. The Census Bureau category is very broad, and specific figures are not available as to how many of these firms are exclusive manufacturers of television equipment or how many are independently owned and operated. We conclude that there are approximately 778 small manufacturers of radio and television equipment.

117. Electronic Household/Consumer Equipment. The Commission has not developed a definition of small entities applicable to manufacturers of electronic equipment used by consumers, as compared to industrial use by television licensees and related businesses. Therefore, we will use the SBA definition applicable to manufacturers of Household Audio and Visual Equipment. According to the SBA's regulations, a household audio and visual equipment manufacturer must have 750 or fewer employees in order to qualify as a small business concern. Census Bureau data indicates that there are 410 U.S. firms that manufacture radio and television broadcasting and communications equipment, and that 386 of these firms have fewer than 500 employees and would be classified as small entities. The remaining 24 firms have 500 or more employees; however, we are unable to determine how many of those have fewer than 750 employees and therefore, also qualify as small entities under the SBA definition. Furthermore, the Census Bureau category is very broad, and specific figures are not available as to how many of these firms are exclusive manufacturers of television equipment for consumers or how many are independently owned and operated. We conclude that there are approximately 386 small manufacturers of television equipment for consumer/household use.

118. Computer Manufacturers. The Commission has not developed a definition of small entities applicable to computer manufacturers. Therefore, we will utilize the SBA definition of Electronic Computers. According to SBA regulations, a computer manufacturer must have 1,000 or fewer employees in order to qualify as a small entity. Census Bureau data indicates that there are 716 firms that manufacture electronic computers and of those, 659 have fewer than 500 employees and qualify as small entities. The remaining 57 firms have 500 or more employees; however, we are unable to determine how many of those have fewer than 1,000 employees and therefore also qualify as small entities under the SBA definition. We conclude that there are approximately 659 small computer manufacturers.

119. Compliance Requirements. There may be compliance requirements for cable operators and OVS operators, in the form of mandatory digital broadcast television carriage requirements, if any of the options set forth in this NPRM are

ultimately adopted by the Commission. An attempt has been made to streamline compliance requirements. For example, we have sought comment on streamlining the must carry complaint process for digital television station carriage.

120. Federal Rules Which Duplicate, Overlap, or Conflict with the Commission's Proposals. None.

121. Report to Congress. The Commission will send a copy of the NPRM, including this IRFA, in a report to be sent to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996. In addition, the Commission will send a copy of the NPRM, including IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

122. It is ordered that, pursuant to Sections 1, 4 (i) and (j), 325, 336, 614, and 615 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154 (i) and (j), 325, 336, 534, and 535, notice is hereby given of proposed amendments to part 76, in accordance with the proposals, discussions and statements of issues in this NPRM, and that comment is sought regarding such proposals, discussions and statements of issues.

123. It is further ordered that the Commission's Office of Public Affairs, Reference Operations Division, shall send a copy of this NPRM, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

**List of Subjects in 47 CFR Part 76**

Cable television.

Federal Communications Commission.

**Magalie Roman Salas,**

*Secretary.*

[FR Doc. 98–21085 Filed 8–6–98; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

## National Highway Traffic Safety Administration

## 49 CFR Part 571

**[Docket No. NHTSA 98–4124; Notice 1]**

**RIN 2127–AG86**

## Federal Motor Vehicle Safety Standards Lamps, Reflective Devices, and Associated Equipment

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This document proposes to amend the Federal motor vehicle safety standard on lighting to reduce glare from daytime running lamps (DRLs). It would do this in three stages. One year after publication of the final rule, DRLs utilizing the upper headlamp beam would not be permitted to exceed 3,000 candela at any point, thus becoming subject to the maximum candela (cd) permitted for DRLs other than headlamps. This same limit would be applied to the upper half of lower beam DRLs two years after publication of the final rule. Finally, four years after publication of the final rule, all DRLs, except lower beam DRLs, would be subject to a flat 1,500 cd limit. Lower beam DRLs would be limited to 1500 cd at horizontal or above. This action is intended to provide the public with all the conspicuity benefits of DRLs while reducing glare and is based on research that has become available since the final rule establishing DRLs was published in 1993.

**DATES:** Comments are due on the proposal September 21, 1998. The proposed effective date of the final rule is one year after its publication.

**ADDRESSES:** Comments should refer to the docket number and notice number, and be submitted to: Docket Management, Room PL–401, 400 Seventh Street, S.W., Washington, D.C. 20590 (Docket hours are from 10:00 a.m. to 5:00 p.m.)

**FOR FURTHER INFORMATION CONTACT:** Jere Medlin, Office of Safety Performance Standards (202–366–5276).

**SUPPLEMENTARY INFORMATION:** In 1987, NHTSA opened a docket to receive comments on a proposed amendment to Federal Motor Vehicle Safety Standard No. 108 *Lamps, Reflective Devices and Associated Equipment* to allow daytime running lamps (DRLs) as optional lighting equipment. This rulemaking was terminated the following year. In a petition dated November 19, 1990, General Motors Corporation (GM) petitioned the Agency for rulemaking to permit, but not require, DRLs. GM indicated that it had three concerns that it felt would best be addressed by a permissive Federal standard as requested in the petition. These concerns were as follows:

1. A need to preempt certain state laws that inadvertently prohibited certain forms of daytime running lamps;

2. A desire for a single national law regarding DRLs, instead of a patchwork of different state laws on this subject. California had already enacted its own DRL requirements; and

3. A desire to harmonize any new U.S. requirements for DRLs with the existing Canadian mandate for new vehicle DRLs.

The petition for rulemaking was granted and a proposed rule was published on August 12, 1991. The agency agreed that a permissive Federal standard should be proposed to deal with the first two concerns expressed in the GM petition (inadvertent prohibition of DRLs and a patchwork of differing state requirements). However, the agency decided that its proposal should regulate DRLs only to assure that these new, optional lamps not detract from existing levels of safety. NHTSA explained that: ''The two chief considerations in this regard are that the lamps not create excessive glare, and that their use does not mask the ability of the front turn signal to send its message.'' Based on the available agency research, NHTSA proposed to limit DRL intensity to 2600 cd. This proposed limit was well below the 7000 cd maximum intensity Canada had established, but more than double the 1200 cd limit then in effect or proposed in some European countries for DRLs.

The intensity limits in the NPRM were very controversial, many commenters objected to the proposal's failure to harmonize the permissive U.S. standard for DRLs with other countries' DRL standards. Domestic manufacturers were particularly concerned that the proposal was not harmonized with Canada's DRL requirements. In its comment to the NPRM, GM asserted that 7000 cd DRL are dimmer than 35,000 cd full intensity lower beams. While 35,000 cd. is certainly a greater intensity than 7000 cd, NHTSA observed in the preamble to the final rule that GM had failed to also explain the effects of the different aim used for the upper beam and lower beam. The bright spot of lower beam lamps is directed down and to the right one to two degrees. Viewed straight-on, earlier data indicated that lower beams conforming to Standard No. 108 are not brighter than 3000 cd with 2200 cd as a typical intensity at the H–V axis. The bright spot of upper beam lamps is directed straight out and as far down the road as possible. Viewed straight-on, the full intensity of the upper beams would be directed at the H–V axis—up to 7000 cd in the case of DRLs.

GM also commented that the range between the Canadian minimum of 2000 cd for DRLs and NHTSA's proposed maximum of 2600 cd for DRLs was too narrow for practicability. GM urged NHTSA to set the proposed maximum brightness for DRLs slightly higher to recognize the practicability issues.

The comments to the proposal from the Insurance Institute for Highway Safety and vehicle and equipment manufacturers, with two exceptions,

called for the adoption of the Canadian provisions which permit DRL as bright as 7000 cd. The normal harmonization concerns (existence of equipment already designed for Canada and the pursuit of free trade) were given as reasons. Further, the commenters who opposed limiting DRL brightness below 7000 cd noted that there were almost no glare complaints in Canada. This remains true in 1998; only a few letters of complaint have been received by Transport Canada. However, Volkswagen and General Electric supported the proposed 2600 cd. maximum.

The commenters who supported 7000 cd as the upper intensity limit for DRLs also noted that this would permit cost savings. The simplest and least expensive way to add DRLs to a vehicle is simply to wire the upper beam headlamps in series. This halves the voltage and produces approximately one tenth the light intensity, which corresponds to about 7000 cd. as a maximum.

Ford Motor Company, GM, Chrysler Corporation, and American Automobile Manufacturers Association commented that the agency's research on glare was not sufficiently convincing to be the basis for a 2600 cd limit.

Advocates for Highway and Auto Safety, John Kovrik, and most of the commenting state agencies expressed concerns about glare and supported the NHTSA proposal for a 2600 cd maximum intensity for DRLs. Virginia and Ohio favored 2600 cd; Michigan favored full intensity lower beams which are roughly equivalent. Minnesota supported the proposed intensity limits, and asked for other requirements to limit the mounting height of DRLs, as a further control on glare.

In response to these comments, NHTSA sought to find a middle ground that would achieve the agency's goals of preventing excessive glare and masking of turn signals, and accommodating the commenters' desire for harmonization and the chance to use the simplest DRL system. NHTSA published a final rule on January 11, 1993 that announced this middle ground. In the final rule, reduced intensity upper beam DRLs up to 7000 cd were permitted, but only if they were mounted below side mirror and inside mirror mounting heights (34 inches or 864 mm) to avoid direct mirror glare from the rear. The final rule explained that the upward intensity of upper beam lamps ''diminishes rapidly as the angle above the horizontal increases,'' and that NHTSA's calculations show that no more than 350 cd would be directed into the rearview mirror of a Honda Civic CRX by DRLs of 6600 cd on a Ford Taurus trailing one car length behind. In addition, the agency calculated that the steady intensity of light in the mirrors of cars being followed by cars with 7000 cd DRLs would be ''only about one eighth of the level considered to be discomforting'' and that the driver of a small car would not be exposed to an intensity greater than 2600 cd unless the mounting height of the DRL of the vehicle behind exceeded 34 inches. Accordingly, NHTSA concluded that 7000 cd upper beam DRLs could be permitted, as long as they were mounted no higher than 34 inches. A 3000 cd intensity limit was established for other DRLs.

The reader is referred to the previously published notices for background information on this topic (52 FR 6316, 53 FR 23673, 53 FR 40921, 56 FR 38100, and 58 FR 3500).

The final rule amended the special wiring provisions of Standard No. 108 by adding paragraph S5.5.11 with appropriate specifications. Under the rule, an upper limit of 3000 cd at any place in the beam was established for all DRLs including headlamps. However, as an alternative, an upper beam headlamp mounted not higher than 864 mm (34 in.) above the road surface and operating as a DRL was limited to a maximum of 7000 cd at test point H–V. The alternative for a lower beam headlamp as a DRL is operation at full lower beam voltage or less.

DRLs, permitted since February 10, 1993, have been utilized by General Motors (GM), Freightliner, Saab, Volkswagen, and Volvo. During the last two years, the agency has received over 400 complaints from the public about glare from these lamps, in the form of letters, telephone calls, and Internet E-mail messages. Most of these (Congressional letters and responses and other letters to the agency) have been placed in Docket NHTSA 98–3319. Many of these complained of the DRLs on Saturn cars.

In response to those complaints, during 1997, agency staff conducted DRL voltage and intensity testing on a vehicle that was identified in some of the complaints as particularly offensive, a Saturn sedan. The vehicle's reduced intensity upper beam DRL was found to have about 6000 cd with the measured voltage of 7V, half the measured battery voltage on the running vehicle (because the DRLs are wired in series). It was noted that the DRL was operating well above the laboratory test voltage of 6.4V (half the normal laboratory test value of 12.8V) Later in 1997, laboratory tests made by members of the agency's safety assurance staff found that Saturn upper beam headlamps used as half-voltage DRLs (6.4V) achieved 5080, 5160 and 5670 cd. This voltage was 6.4V because, when installed, the Saturn DRLs are wired in series. Thus, the laboratory test voltage is one half the specified laboratory test voltage of 12.8V. These intensity readings were less than the current specified maximum intensity limit of 7000 cd for DRLs mounted below 864 mm (34 in.). However, the actual voltage on Saturn DRLs is higher than the 6.4V specified for the laboratory tests. The DRL voltages in three Saturn vehicles tested in-house by the agency ranged from 6.7V to 7.1V. The effect of this higher voltage on DRLs in service is to increase the intensity. The three DRLs, when tested at 7V, achieved 7040, 7050, and 7790 cd, all above the maximum permissible intensity. This increase in on-road intensity above laboratory intensity is one of the reasons for the higher glare that has caused complaints.

This alone does not account for the number of complaints received about glare from Saturn DRLs. With most upper beam DRLs operating at 10 percent of their normal upper beam intensity, the performance is typically 10 percent of an intensity that, when tested in a laboratory, should be between 40,000 to 70,000 cd or 4000 to 7000 cd for the DRL on most GM headlamp systems. Thus, vehicles other than Saturn can have high intensity DRLs. Even on vehicles using lower beam headlamps as DRLs but which are mounted higher than on typical passenger cars, the intensities perceived by other drivers can be as high as the reduced intensity upper beam DRLs.

Research by the University of Michigan Transportation Research Institute (UMTRI) Industry Affiliates Program for Human Factors in Transportation Safety, ''Glare and Mounting Height of High Beams Used as Daytime Running Lamps'' UMTRI–95–40, November 1995, by Sivak, Flannagan and Aoki, was an analytical study that found that discomfort glare caused by reduced intensity upper beam headlamps used as DRLs did not appreciably increase when those lamps were mounted above 34 inches compared with their mounting below 34 inches. The study compared the relative effects of mounting height and beam pattern to a 7,000 cd. DRL that was presumed acceptable when mounted at 34 inches. The value of this research depends entirely on the premise that the glare from a 7,000 cd. DRL mounted at 34 inches is acceptable. The complaints from the U.S. public indicate that this premise is probably incorrect, thus

limiting the value of this research in determining the intensity limits relative to mounting height of DRLs.

GM has changed its product distribution of DRLs from almost 100 percent of reduced intensity upper beam headlamps in 1994 model year vehicles to a significant portion of lower beam headlamps, and some turn signal lamps in its 1997 model year vehicles, nevertheless retaining DRL on many upper beam headlamps. Many of the lower beam headlamp DRLs are on vehicles whose headlamps are not subject to the mounting height/intensity limit. GM could have used the reduced intensity upper beam headlamps for the DRLs but chose not to do so. The latest Freightliner aerodynamic tractors use a turn signal DRL. This is a more expensive approach that may cause more frequent than normal bulb replacement; however, bulb manufacturers are responding to the need for longer life turn signal bulbs. It appears that this choice of DRL was motivated primarily by Freightliner not wanting to cause glare with its DRLs. These acts by vehicle designers and manufacturers suggests that they are aware of public concerns about DRL glare.

NHTSA received a September 1997 UMTRI Report (No. 97–37) titled ''A Market-Weighted Description of Low-Beam Headlighting Patterns in the U.S.'' by Sivak, Flannagan, Kojima and Traube. The report lists intensities (in cd.) of 35 lower beam headlamps used on the 23 best-selling passenger cars, light trucks and vans for model year 1997. These data allowed the agency to compare intensity levels in potential glare-causing regions such as along the H–H line and above.

The first table below shows lower beam photometric data for both cars and trucks of 1997 vintage extracted from Table 3 in UMTRI Report 97–37 and illustrates the potential for lower beam glare problems. The second table illustrates the glare problem by calculating the intensity that will be seen by other drivers when the same full voltage lower beam headlamps are used as DRLs at typical real world operating voltages of 13.5V or 14V. These intensities are from 1.2 to 1.35 times more intense than the values in the first table because higher voltage caused the intensity to increase disproportionately. The third table is the reduced intensity lower beam operated at 11.78V (about 92 percent of the required laboratory voltage of 12.8V). The fourth table is this same reduced intensity lower beam operating at real world voltages of 13.5 and 14V.

LOWER BEAM H–H TEST POINTS (CD.) BRIGHTER THAN 3000 CD AT LABORATORY VOLTAGE

| Volts | Percentile | H-V | H–1R | H–2R | H–3R | H–4R | H–5R |
|---|---|---|---|---|---|---|---|
| 12.8 | 25th | ..... | ..... | 5040 | 5720 | 4211 | ..... |
| | 50th | ..... | 5414 | 6838 | 6992 | 5445 | ..... |
| | 75th | 4907 | 7405 | 8142 | 8386 | 7548 | 6164 |

LOWER BEAM H-H TEST POINTS (CD.) BRIGHTER THAN 3000 CD WHEN OPERATED AS FULL VOLTAGE DRLS AT REAL WORLD VOLTAGES

| Volts | Percentile | H-V | H–1R | H–2R | H–3R | H–4R | H–5R |
|---|---|---|---|---|---|---|---|
| 13.5 | 25th | ..... | ..... | 5987 | 6795 | 5003 | ..... |
| | 50th | ..... | 6431 | 8123 | 8306 | 6489 | ..... |
| | 75th | 5829 | 8797 | 9673 | 9962 | 8967 | 7322 |
| 14.0 | 25th | ..... | ..... | 6804 | 7722 | 5685 | ..... |
| | 50th | ..... | 7309 | 9231 | 9439 | 7351 | ..... |
| | 75th | 6624 | 9997 | 10992 | 11321 | 10190 | 8321 |

LOWER BEAM H–H TEST POINTS (CD.) BRIGHTER THAN 3000 CD AT REDUCED VOLTAGE

[DRL voltage=92 percent of Laboratory Voltage]

| Volts | Percentile | H–V | H–1R | H–2R | H–3R | H–4R | H–5R |
|---|---|---|---|---|---|---|---|
| 12.8 red. to 11.78 | 25th | ..... | ..... | 3782 | 4290 | 3158 | ..... |
| | 50th | ..... | 4061 | 5129 | 5244 | 4083 | ..... |
| | 75th | 3675 | 5554 | 6107 | 6290 | 5661 | 4623 |

LOWER BEAM H–H TEST POINTS (CD.) BRIGHTER THAN 3000 CD WHEN OPERATED AS REDUCED VOLTAGE

[DRLs Using Real World Voltages]

| Volts | Percentile | H–V | H–1R | H–2R | H–3R | H–4R | H–5R |
|---|---|---|---|---|---|---|---|
| 13.5 red. to 12.42 | 25th | ..... | ..... | 4550 | 5164 | 3802 | ..... |
| | 50th | ..... | 4888 | 6173 | 6313 | 4932 | ..... |
| | 75th | 4430 | 6686 | 7351 | 7571 | 6815 | 5565 |
| 14.0 red. to 12.88 | 25th | ..... | ..... | 5171 | 5869 | 4321 | ..... |
| | 50th | ..... | 5554 | 7016 | 7174 | 5587 | ..... |
| | 75th | 5034 | 7598 | 8354 | 8604 | 7744 | 6324 |

As stated above, the basis of these calculations is the information from UMTRI Report 97–37. The current market headlamp performance is markedly more intense than the headlamp performance from the 1985–

1990 vintage headlamps used by NHTSA as a basis to decide on the intensity levels in the 1993 final rule on DRLs. Because this basic headlamp performance increase continues to be an influence on DRL intensity, today's DRLs have a far higher intensity than expected by NHTSA in 1993. Thus, a 50th percentile lower beam intensity at one degree to the right of center along the horizontal axis of a beam (point H–1R), is about 6400 cd at 13.5V and 7300 at 14V. Half of the lamps have greater intensity than this. On those vehicles with higher mounted lamps, such as pick-ups, vans and sport utility vehicles, this could be substantially glaring based on past NHTSA research about DRL glare intensities.

The National Motorists Association of Waunakee, Wisconsin, (''NMA'') opposes the use of DRLs in response to continuing and increasing complaints by its members. The member complaints can be summarized as follows: increased glare, obscuration of turn signal lights, increased visual clutter, masking other roadway users, reduction in the conspicuity of motorcycles, distortion of distance perception, reduction of detectability of emergency vehicles, and failure to use the normal headlighting system at night.

NMA petitioned for rulemaking in August 1997 to:

1. Amend Standard No. 108 to prohibit hard wired DRLs on all vehicles manufactured for sale in the United States;

2. Require retrofit of all vehicles currently equipped with DRLs with a switch that permits the DRLs to be turned off or on at the discretion of the vehicle operator;

3. Amend Standard No. 108 to prohibit the use of high beam headlamps as a component of a DRL system; and

4. Recall, disconnect, or convert to lower beam any DRL system that currently uses the upper beam.

The agency also received a petition for rulemaking in September 1997 from JCW Consulting of Ann Arbor, Michigan. This petition objects to the ''excessive'' glare from current DRLs. It requests the following actions:

1. Amend Standard No. 108 so that no new DRL lamps with a power of more than 1200 cd are allowed, regardless of mounting location, effective with the 1999 model year;

2. Amend Standard No. 108 so that no DRL lamps may use upper beam components;

3. Order the recall of all existing upper beam based DRL systems, and require that they be either entirely dismantled, or converted to lower beam or turn signal components, with a maximum output of 1200 cd; and

4. Order that all existing vehicles currently equipped with DRLs based on lower beam or turn signal components, and which emit more than 1200 cd, be recalled and equipped with a switch that permits the vehicle owner to have the systems on or off as desired (with the default position of ''off''). Alternatively, the manufacturer could reduce the output to a maximum of 1200 cd, and leave the automatic functions operative.

These petitions indicate public concern about excessive DRL intensity and the resulting glare. NHTSA had become aware of public concern and began to study the issue before receiving these petitions. NHTSA is granting them, to the extent that it is proposing to reduce the intensity levels of DRLs with the intent of reducing glare complaints.

One of NHTSA's stated goals when it permitted DRLs as optional lamps was that they should not create excessive glare. To achieve this goal, NHTSA established carefully considered, but higher than proposed, limits on DRL intensity. NHTSA believed that the compromise intensity limits established in the January 1993 final rule would assure that DRLs would not cause excessive glare. However, the widespread voluntary introduction of DRLs since 1993 has demonstrated real-world experience with many varieties of DRLs. This real-world experience indicates that the glare problems are substantially greater than was anticipated in 1993. NHTSA's goal of no undue glare was not accomplished. In response to this problem, NHTSA has developed a three-step approach to address DRL glare, which would be phased in over four years after publication of the final rule.

**Phase One: Eliminate the Special Provision Allowing Upper Beam Headlamp DRLs to Have a 7000 cd Maximum Intensity**

NHTSA proposes that the provision in Standard No. 108 permitting upper beam headlamps to be used at intensities up to 7000 cd, at H–V, when mounted below 864 mm. be deleted, effective one year after issuance of the final rule. The consequence of this will be that upper beam headlamps operating at reduced voltage will be required to have a beam intensity limit of no more than 3000 cd at any point in the beam.

Commenters may argue, as GM did previously, that the lower beam is permitted to be much more intense than the current 7000 cd maximum for upper beam DRLs. As explained in justification of the existing rule, correctly aimed lower beam headlamps at lower mounting heights do not pose the upward glare problem that correctly aimed upper beam headlamp DRLs do. A check of photometric data on 71 lower beam headlamps of vintage 1985–1990 showed that they were not brighter than 3,000 cd at the H–V (center) test point. Data collected by UMTRI for NHTSA (DTNH22–88–C–07011, ''Development of a Headlight System Performance Evaluation Tool'') indicated that 2200 cd was a typical intensity at the H–V test point. This is the original basis for the existing 3000 cd intensity limits for upper beam DRLs when they are mounted above 34 inches. The intent was to constrain the intensity to that similar to a lower beam headlamp when viewed from straight ahead. The 1997 UMTRI data referenced and discussed above show current headlamps are substantially more intense than the earlier headlamps. When used as reduced intensity DRLs, the lamps will be more intense than the 3000 cd deemed to be the acceptable limit in 1993.

In addition, drivers seem to accept more glare from headlamps at night than from DRLs during daylight because of their willingness to trade off some glare for increases in critically needed seeing distance visibility. Headlamps are intended to allow the driver to see at night and to allow the vehicle to be seen by other drivers. Thus, a headlamp designer must make a trade off between nighttime visibility for the driver of the vehicle and glare for other drivers. Reasonable people may make that trade off at very different places. Consider, for example, the very different lower beam pattern in European headlamps with a sharp cutoff of light above the horizontal (to prevent glare for other drivers) and the U.S. requirement for substantially more light above the horizontal (to assure visibility of signs and other roadside objects for the driver).

DRLs, on the other hand, have only one function—to improve vehicle conspicuity during daylight. The only consideration is to assure that the DRL is sufficiently intense to achieve this purpose. More intense DRLs do not offset the problems of glare with any significant increase in conspicuity. Because there is no tradeoff, the agency should be less tolerant of glare from DRLs than it is for headlamps. Thus, Phase Two is proposed.

**Phase Two: Reduce the Intensity for any DRL to 3000 cd at Horizontal and Above**

The September 1997 UMTRI Report (UMTRI–97–37) titled ''A Market-Weighted Description of Lower-Beam Headlighting Patterns in the U. S.'' provides photometric test data on a sample of 35 lower-beam headlamps manufactured for use on the 23 best selling passenger cars, light trucks, and vans for model year 1997. This new sales-weighted data reveal 50th percentile lower beam intensity (at 12.8V—not 14V, and 1.35 times the laboratory intensity possible in the actual on-road scenario) for cars, light trucks, and vans is 2615 cd at H–V, 4015 cd at H–0.5R, 5414 cd at H–1R, 6838 cd at H–2R, 2111 cd at H–0.5L, and 1724 cd at H–1L (See Fig. 1). The corresponding values on the 1985–90 headlamps were 2215, 3198, 4173, 5239, 1579, and 1235 cd at 12.8V, respectively. In all instances light levels have markedly increased and thus glare potential has increased for the headlamps on 1997 cars, light trucks, vans, and sport utility vehicles. The problem is even more significant, because the real world voltage on the lamps can be 13.5 to 14V, giving intensity increases of 35 percent or more.

The earlier UMTRI tests of 71 vintage 1985–1990 lower beams showed that they were not brighter than 3000 cd at H–V, and furthermore, 2215 cd was the mean value. The 5239 cd value found at 2R on the new headlamps means that they are far more likely to cause glare problems for other drivers than the less intense 1985–1990 lamps, even at the reduced voltage (92 percent voltage and approximately 75 percent intensity) used for Canada. Thus, it is likely that complaints about DRL glare from lower beam headlamps will supplant complaints about DRL glare from reduced intensity upper beam headlamps when manufacturers shift from a preponderance of upper to a greater number of lower beam DRLs if nothing is done to establish maximum intensity limits for lower beam DRLs.

In the current DRL specifications in Standard No. 108, lower beam DRLs are the only type of DRL not subject to any maximum intensity limit. Given the 1997 UMTRI information on the intensity of current lower beams, it seems appropriate now to include a maximum intensity limit for lower beam DRLs to ensure that glare from those DRLs is also limited. The maximum value already in place for all other types of DRLs is 3000 cd, and there is no information suggesting that a higher intensity value for lower beam DRLs will not produce glare for other drivers. Accordingly, the agency is proposing to adopt a 3000 cd. limit for lower beam DRLs, to be effective one year after that limit is extended to upper beam DRLs, that is to say, two years after publication of the final rule.

However, one difference is needed for the maximum intensity limit for lower beam DRLs compared with that for all other DRLs, which are limited to no more than 3000 cd at any point in the beam. Because lower beam headlamps can have hot spot intensities (usually around 2D–2R) of more than 35,000 cd, the agency is concerned that limiting these lamps to 3000 cd anywhere in the beam would in effect preclude the use of lower beams as DRLs. NHTSA does not want to do this; it simply wants to establish performance criteria that will assure that the public is not bothered by excessive glare from DRLs, and allow vehicle manufacturers to decide how to design complying non-glare DRLs. In this case, the agency has tentatively concluded that it can prevent excessive glare from lower beam DRLs by proposing that they have no test point that is more intense that 3000 cd at horizontal or above. More intense points in the beam pattern below horizontal should not produce significant glare complaints for other drivers, unless the beam projects near or above the eye height of passenger car drivers. To address this last issue about mounting height and glare, the agency is proposing Phase Three.

**Phase Three: Final Glare Reduction**

After adequate lead time has elapsed, which the agency has tentatively decided should be four years after issuance of the final rule, NHTSA believes that lower beam DRLs should be limited to a maximum intensity of 1500 cd at horizontal or above and any other DRL be limited to a maximum intensity of 1500 cd *anywhere in the beam,* when measured at 12.8V. This action will lower the intensity on the brightest DRLs on cars operating on public roads to about 2020 cd at 14V (near the real-world worst case DRL glare condition).

Requiring lower intensity by reducing intensities to 1500 cd at 12.8V is important in ensuring that glare is limited under typical and reasonable real-world conditions. In determining this limit, the agency seeks a level which is a balance between the need to make DRLs bright enough to be conspicuous and effective in reducing crashes, the need to minimize glare problems, and the desire for a practical/cost effective system. By providing a long lead time, the agency believes that practical and low cost solutions can be achieved that permit manufacturers to modify their DRL modules, and use more turn signal lamps as DRLs.

The challenge in determining a maximum intensity limit arises because the glare response of the eye to light intensity and the ability of the vision system to detect objects depends on the ambient illumination. As the sky and roadway background become brighter, DRLs appear less glaring to an observer. But in order to make a light source more detectable against brighter backgrounds, it has to have higher intensities, which will increase the glare when it is seen under lower ambient light levels. If future technical advances lead to the development of DRLs which automatically adjust their intensity in response to changing ambient light levels, the balance between glare and conspicuity could be optimized. However, with the current fixed intensity lighting technology, a maximum value needs to be selected which strikes a compromise between providing potential safety benefits and minimizing the glare achieved.

The balance between glare and effectiveness is illustrated in Figure 2 from a 1990 Dutch Study by Hagenzieker, titled, ''Visual Perception and Daytime Running Lights.'' Figure 2 has been placed in Docket No. NHTSA 98–4124 and is available for public inspection.

That report described a model of how DRL intensity and drivers' visual adaptation level interact to determine the degree of discomfort glare and detectability of DRL. Figure 2 plots data from DRL research showing results from glare and visual performance studies. The data for glare represent conditions under which discomfort did or did not occur. The data for visual performance represent conditions under which DRL improved conspicuity performance compared to a no-DRL baseline. The area above the top broken line shows the conditions causing increased discomfort glare. The area above the lower broken line shows the conditions leading to increased visual conspicuity performance compared to performance without DRL.

The area between the two broken lines illustrates the conditions where conspicuity performance improves without causing discomfort glare. The difference between the two lines shows how there is always a tradeoff between glare and detectability at any level of DRL intensity. For example, if DRL intensity is 2000 cd glare will not be a significant problem in daylight but may cause some discomfort in twilight.

Vehicle detection will be improved in twilight and overcast conditions, but may not increase under bright daytime conditions. If DRL intensity is increased to 3000 cd, glare becomes a concern at even brighter ambient light levels, but vehicle contrast and detection will be improved. Thus, to determine the maximum DRL intensity, the glare levels acceptable under twilight conditions needs to be balanced against the intensity levels required for increased vehicle detectability under daytime light conditions.

NHTSA-sponsored research quantified how drivers react to the glare from different DRL intensities. Kirkpatrick et al. assessed the response of 32 subjects to DRL glare from a following car at 6 m behind the subjects (''Evaluation of Glare From Daytime Running Lights,'' DOT HS 807 502, 1989). Subjects were asked to look into the rear view mirror and rate the glare discomfort. The ratings were based on a 9-point scale, with 1 being the most disturbing and 9 being just noticeable glare. Discomfort was also measured in terms of the desire of the subjects to switch the mirror to the low reflectance, night position. The experiment was run during a time period from two hours before sunset to one half hour after sunset during the months of January and February. The illumination on the road surface varied from 4 to 30,000 lux. Below 7000 lux corresponds to dusk light levels. The higher light levels are typical of heavy overcast daytime conditions.

The discomfort rating scale results are described below in Figure 3 extracted from the report, in terms of the cumulative percent of subject responses equal to or less than a particular rating scale.

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"from Kirkpatrick et. al "Evaluation of Glare from Daytime Running Lights 1989"

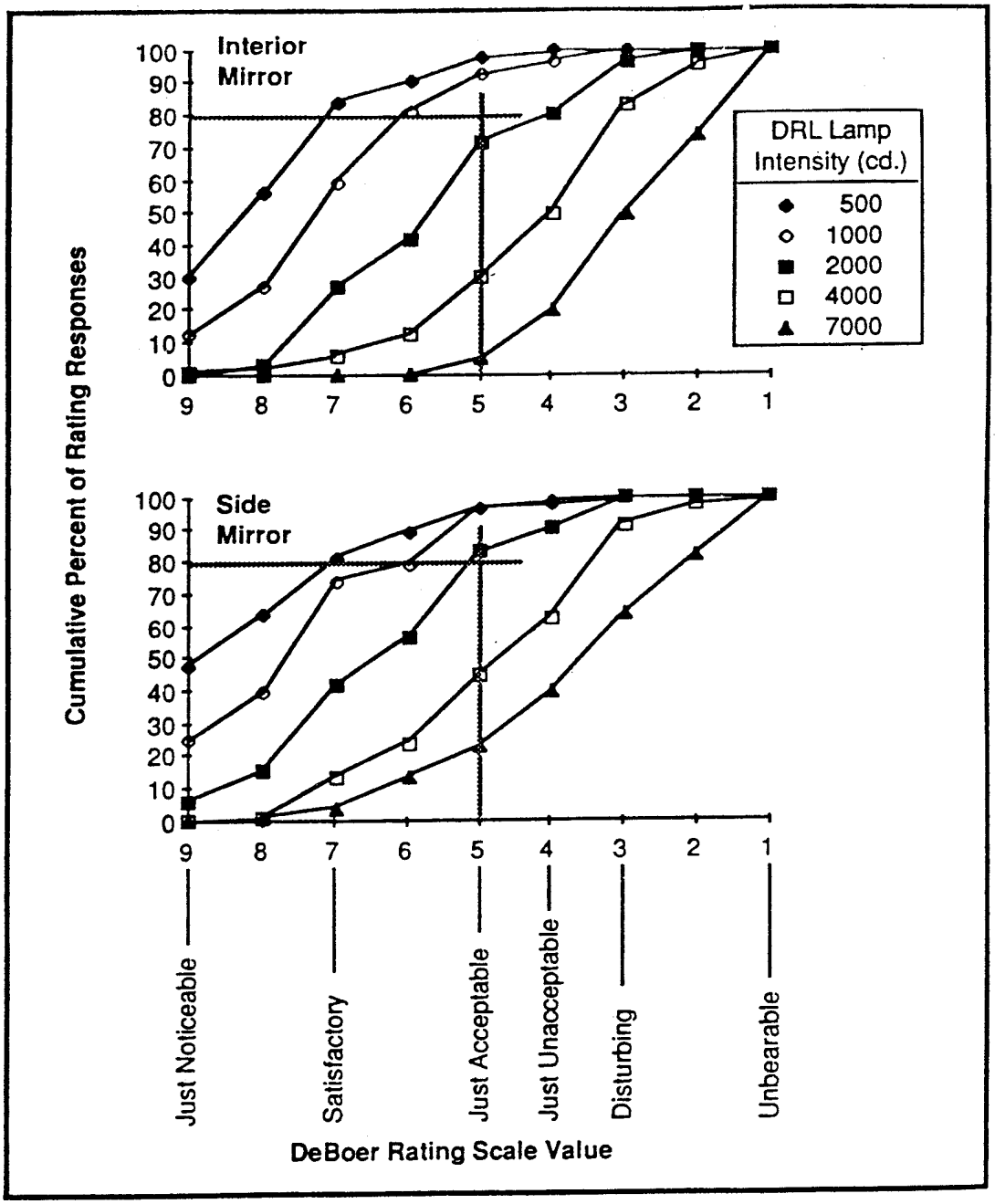


**Figure 3.** **Cumulative Percent of Responses Equal to or Less Than Rating Scale Value as a Function of Mirror Condition and DRL Lamp Intensity**

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These data can be used to determine maximum intensity levels that are associated with specified percentages of the responses made by subjects. For example, the graph in Figure 3 shows that only 500 and 1000 cd levels are rated no worse than ''just acceptable'' in 80 percent of the responses. These results mean that if a DRL is 1000 cd, only 20 per cent of the ratings will find the intensity to be at some degree of unacceptable glare. At 2000 cd, the glare was rated as no worse than ''just unacceptable'' in 80 percent of the responses. At 4000 cd, the glare was rated as no worse than ''disturbing'' in 80 percent of the responses. The corresponding results for the interior mirror dimming probability show that at 4000 cd, mirrors would be dimmed about 70 percent of the time; at 2000 cd the dimming probability is about 40 percent; at 1000 cd the dimming probability is about 10 percent. Dimming the mirror in daytime would reduce the utility of the mirror because its dimmed reflectance is about 4 percent. Drivers would have their eyes adapted to brighter daytime light levels and would not be able to see objects in the low reflectance, dark mirror.

The data discussed above show the problems of glare from DRL viewed in rearview mirrors. The Society of Automotive Engineers Lighting Committee conducted several tests of DRL glare from oncoming vehicles. Their tests were conducted to obtain the subjective reactions of committee members to different intensities, and were reported in a memorandum on SAE J2087 Daytime Running Lamps on Motor Vehicles, dated April 9, 1991, from D.W. Moore to John Krueger, SAE. Its test in October 1982 in Ottawa found that under dusk conditions, 12 percent of the observers reported that 1000 cd caused glare at a distance of 400m and 39 percent reported that it caused glare at 50m.

While glare reduction is important to driver acceptance of DRL, NHTSA also wants to assure that the potential effectiveness of DRL in improving safety is not severely compromised. The extent to which DRL effectiveness may be reduced by reducing intensity can not be predicted with certainty, but data regarding the improved detectability of vehicles provides some guidance. The ambient light level affects the detectability of a DRL-equipped vehicle. The difference in detectability of a vehicle with DRL versus one without DRL, when observed at higher light levels, is smaller than the difference at lower light levels. This was shown in NHTSA sponsored research on the conspicuity of DRL. (W. Burger, R. Smith, and K. Ziedman. ''Evaluation of the Conspicuity of Daytime Running Lights.'' DOT HS 807 609, April 1990) The research evaluated the relationship between DRL intensity and detection distance, and how detection distance is influenced by ambient light level, which was measured in terms of the illuminance measured on a horizontal surface. Twenty three subjects were asked to detect a vehicle driving toward them in their peripheral visual field. The subjects were asked to perform a task to keep their attention away from the approaching car and had to press a switch as soon as they became aware of the test vehicle in their peripheral vision. The DRL intensity on the test vehicle varied from 0 to 1,600 cd. The results showed that the mean improvement in detection distance with 1600 cd DRLs is about 200 feet for low ambient conditions, but only about 80 feet for high ambient conditions.

Thus, under the low ambient conditions in this test, intensities below approximately 2000 cd can be effective in improving vehicle detectability, even at a peripheral viewing angle. Under high ambient light conditions, a 1600 cd DRL shows some effectiveness in catching drivers' attention when they are not directly looking at the light.

With direct viewing of a vehicle, lower intensities should be effective in increasing detectability. This finding was supported by the results of numerous tests conducted by the SAE Lighting Committee to subjectively determine what DRL intensities were needed to make a vehicle more noticeable under daytime conditions. For example, in a 1982 SAE daytime test of DRLs in Ottawa, observers rated a vehicle with a 100 cd DRL to be more noticeable than a car with no lamps or parking lamps. A 1984 test in Detroit found that 80 percent of observers could clearly see a vehicle with 600 cd DRL at 0.5 mile. A 1985 SAE test in Mesa, Arizona evaluated the effectiveness of DRL signal intensities as determined by observers looking at an approaching vehicle. During daytime, 80 percent of the observers judged 1500 cd to be effective at 150 feet. In 1985, a test in Indianapolis found that an amber turn signal was effective at 600 cd. In 1988, a test in Kansas City found that 500 cd was considered effective by more than 70 percent of the observers. In September 1989, SAE conducted a test in Washington, D.C. All intensities tested (from 200 cd to 7000 cd) were judged effective by more than 80 percent of the observers. What all of these SAE tests show is that on the basis of subjective ratings, DRLs below 2000 cd are consistently judged effective in enhancing vehicle conspicuity in situations where the observers look in the direction of the vehicle.

In summary, NHTSA believes that based on glare considerations alone, the research data strongly point to the need to keep the maximum intensity level somewhere between 1000 and 2000 cd so that the majority of drivers are not discomforted under overcast and twilight conditions. NHTSA believes that, if a 2000 cd level is prescribed as the upper limit, the actual intensities on the road will likely be within the 1000 to 2000 cd range and thus, acceptable to most drivers under most driving conditions. Past testing indicates that DRLs at these levels still have the ability to enhance vehicle detectability in bright daytime conditions. Under low ambient conditions, where detectability of some vehicles without DRLs may be marginal, low intensity DRLs can boost detection distances more significantly.

The question then becomes what level should be specified in a Standard No. 108 test to achieve a DRL intensity of no more than 2000 cd in the real world, under actual operating conditions. The 12.8V used in NHTSA testing represented typical vehicle voltages in 1968, but typical vehicle voltages in 1997 have increased. A typical voltage in current vehicles is about 13.5V, with some vehicles running at 14.0V. Using the conversion table shown below, 2000 cd at 13.5V corresponds to 1660 cd. at 12.8V ($2,000 \times 0.83$), while 2000 cd at 14.0V corresponds to 1480 cd at 12.8V ($2,000 \times 0.74$). Because the demand by vehicle designers for greater voltages in the vehicle electric systems responds to the increase in electric features on vehicles, there is no reason to expect this will abate in the near future. Thus, it seems likely that today's worst-case (14.0V) could become the typical voltage in the next five or ten years. To respond to this, NHTSA proposes to specify a maximum candela limit that assumes many vehicles will operate with 14.0V, and round the 1480 cd up to 1500 cd in the standard. It should also be noted that the recommended 1500 cd limit is identical to ECE requirements for maximum DRL intensity (1200 cd tested at 12.0V is 1500 cd tested at 12.8V).

TEST VOLTAGE AND INTENSITY MULTIPLICATION FACTORS

| Candela specified at— | Multiplication Factor to Use to Get Candela at— | | | | | | |
|---|---|---|---|---|---|---|---|
| | 12.0 v | 12.42 v | 12.8 v | 12.88 v | 13.2 v | 13.5 v | 14.0 v |
| 12.0 v | 1.00 | 1.13 | 1.25 | 1.28 | 1.37 | 1.50 | 1.68 |
| 12.42 v | 0.89 | 1.00 | 1.11 | 1.13 | 1.21 | 1.33 | 1.49 |
| 12.8 v | 0.80 | 0.90 | 1.00 | 1.02 | 1.10 | 1.20 | 1.34 |
| 12.88 v | 0.78 | 0.88 | 0.98 | 1.00 | 1.07 | 1.18 | 1.32 |
| 13.2 v | 0.73 | 0.82 | 0.90 | 0.93 | 1.00 | 1.07 | 1.23 |
| 13.5 v | 0.67 | 0.76 | 0.83 | 0.85 | 0.93 | 1.00 | 1.12 |
| 14.0 v | 0.60 | 0.67 | 0.74 | 0.76 | 0.81 | 0.88 | 1.00 |

As may be seen from this chart, lamp intensity increases disproportionately with voltage increase. The consequence for headlamps is the same as for DRLs—they get brighter. In a rulemaking separate from this one, NHTSA will ask whether it should consider a change from the standardized test voltage of 12.8V direct current(VDC) to a new standard such as 13.5 VDC or 14 VDC or consider some other solution such as requiring the voltage at headlamps in real vehicles to be 12.8 VDC. If the voltage were increased, a question is raised as to how the photometric performance should be changed to assure that performance on the road is what researchers, lighting test observers, and Federal regulators determined meets the need for safety and is not brighter and not dimmer than necessary or expected.

Another issue related to DRLs and voltage is that of lower voltage. To date, DRLs that have been based on the use of headlamps have been using full voltage, 75 percent voltage and 50 percent voltage, and it has been presumed that their life as normal headlamps was relatively unaffected. If voltages other than these are used because it is necessary to make the lamps dimmer, will there be any different or additional consequence to lamp life when the lamps are used as normal headlamps? Because DRL installation is voluntary at this time, it could be argued that there would be no burden on manufacturers as a result of changing the DRL requirements because DRL installation is at the manufacturers' discretion. However, NHTSA does not want to discourage the installation of DRLs. Research indicates that DRLs do improve vehicle conspicuity and experience and intuition indicate that enhanced conspicuity should translate into fewer crashes. But there are no data at this time to show DRLs result in fewer crashes in the United States. The agency is awaiting completion of its National Center for Statistics and Analysis study of DRL-equipped GM vehicles. Canada's initial data suggest an 8 percent reduction in two-vehicle, opposing-direction, daytime crashes. More recent Canadian studies show a 5.3 percent reduction in combined data of opposing and angled crashes. For these reasons, the agency wants to carefully consider the burdens associated with this proposal.

For a number of reasons, manufacturers now offer DRLs on many of their vehicles and will continue to do so. Those manufacturers have chosen a variety of DRL implementations, and currently use low voltage lower beams, full voltage lower beams, high intensity turn signals, dedicated DRL lamps, and reduced intensity upper beam headlamps. Most companies use multiple options already, so no large technology burden should occur if changes are proposed to limit maximum DRL intensity to reduce glare. With the proposed intensity limit, those manufacturers that currently use the least expensive DRLs (series wired upper beam headlamps) might not be able to do so. Instead, the choice for such vehicles will be between continuing to use the upper beam DRLs, but replacing series wiring currently used with voltage/current reduction electronics typically used with current reduced intensity lower beam headlamp DRLs, or to use different lamps for the DRLs. It should be noted that using voltage/current reduction electronics for upper beam DRLs is an expensive choice that would produce poor-performing DRLs with little angle/peripheral detection safety value.

This shift in DRL mechanization will affect manufacturers that continue to offer DRLs as standard equipment. Available information indicates the costs for changing from the least expensive type of DRL to others would result in, from a savings of $2.32 to an additional cost of $16.95 (when converting from low voltage upper beam to bright turn signal DRLs) per vehicle based on revised Canadian cost estimates for its law (see ''Preliminary Economic Evaluation of the Costs & Benefits of Daytime Running Lights Regulation'' Transport Canada report TP12517E) and GM 1997 model year production of 4,364,300 cars and trucks less than 8500 pounds GVWR and intended for sale in the U.S. The agency has updated the Canadian cost data (expressed in 1993 Canadian Dollars) converted to 1996 U.S. Dollar costs. The new data are found below. The reader should note the relatively small cost increases associated with this rulemaking.

COSTS OF DRL CHANGE FOR GM

[Based on 1997 Model Year Production of Cars and Trucks Under 8500 Lbs. GVWR intended for Sale in the U. S. [4,364,300 units] and 1996 U.S. Dollars, Using Converted 1993 Canadian DRL Cost Data]

| Existing type of DRL system | Vehicle cost of DRL system (dollars) | | 1997 fleet (percent) | 1997 fleet DRL cost, $M | | 2003 fleet estimate (percent) | 2003 fleet cost, $M in 1997 US$ | |
|---|---|---|---|---|---|---|---|---|
| | Low | High | | Low | High | | Low | High |
| Reduced Intensity Upper Beam | 2.83 | 9.98 | 53.6 | 6.62 | 23.34 | 0 | 0 | 0 |
| Reduced Intensity Lower Beam | 15.44 | 21.99 | 39.3 | 26.48 | 37.71 | 50 | 33.69 | 47.99 |
| Turn Signals | 7.66 | 19.78 | 7.1 | 2.37 | 6.13 | 50 | 16.72 | 43.16 |

COSTS OF DRL CHANGE FOR GM—Continued

[Based on 1997 Model Year Production of Cars and Trucks Under 8500 Lbs. GVWR intended for Sale in the U. S. [4,364,300 units] and 1996 U.S. Dollars, Using Converted 1993 Canadian DRL Cost Data]

| Existing type of DRL system | Vehicle cost of DRL system (dollars) | | 1997 fleet (percent) | 1997 fleet DRL cost, $M | | 2003 fleet estimate (percent) | 2003 fleet cost, $M in 1997 US$ | |
|---|---|---|---|---|---|---|---|---|
| | Low | High | | Low | High | | Low | High |
| Total | ..... | ..... | ..... | 35.47 | 67.18 | ..... | 50.41 | 91.15 |

This gives an increased cost of about $3.42 to $5.49 per vehicle. The costs could be substantially less should GM choose to install turn signal-based DRLs. Then the cost would be from a savings of $.47 to a cost of $5.65 per vehicle.

From a lighting safety perspective, the use of front turn signals as DRLs is desirable, because it eliminates all possibility of turn-signal masking by other DRLs, increases the angles at which the DRL can be seen (visible at 45 degrees) which should increase the benefit at intersections, virtually eliminates glare to other motorists, prevents incidents where drivers forget to turn on full headlamps (with taillamps) in inclement weather or at twilight because the headlamp DRLs provide so much light; and allows motorcycles to keep a unique conspicuity signature. Additional, non-safety benefits are that turn signal DRLs offer a fuel economy benefit of up to 0.5 m.p.g. compared to headlamp DRLs (according to 1990 test data), lower cost of replacement bulbs (compared with replacement costs for headlamps or headlamp bulbs), and lower costs than the reduced intensity lower beam headlamp according to the 1995 Economic Evaluation of DRLs performed by Transport Canada. In addition, turn signals that conform to Federal requirements when mounted closer than 100mm from a lower beam headlamp or an upper beam DRL already meet DRL minimum requirements.

NHTSA realizes that some turn signal lamps would have to be redesigned for this use, because some present lamps could not withstand the heat load from continuous operation or would need to become more intense than 500 cd. However, GM already has at least nine vehicle models with this option, and Chrysler uses turn signals as DRLs on some of its Canadian models.

NHTSA does not believe that it would be wise to immediately prohibit the higher intensity headlamp DRLs and thus terminate the majority of DRL installations on new vehicles. However, the glare limits in this proposed amendment may well move manufacturers to choose turn signal lamps or dedicated DRL lamps as the preferred DRL option.

Because the data available to date indicate that there may well be safety benefits from using DRLs, the issue of glare must be seriously addressed. One could argue that the use of glare-producing DRLs should cease as soon as possible because there are no quantified countervailing benefits the public receives along with this glare. However, the intuitive conspicuity benefits of DRLs are appealing and may translate into significant crash avoidance safety benefits. The costs and burdens discussed above could be tempered if manufacturers are given a modest lead time to make any necessary changes to DRLs, and the public would be assured that its glare complaints are being acted upon.

As stated above, NHTSA proposes to allow one year following the publication of the final rule to make the initial change for upper beam DRL from 7000 cd at H-V to 3000 cd. This would give the public near-term relief from the upper beam DRLs that are the subject of many of the DRL glare complaints. While this would require relatively quick corrective action on the part of the vehicle manufacturers, changing the mechanization of DRLs to other DRL designs they already use would not seem to pose any undue technical design or manufacturing challenges.

Two years after the final rule, and one year after the new requirements for upper beam DRLs go into effect, lower beam DRLs would be limited to no more than 3000 cd at any point on the horizontal or above. There are two types of lower beam DRLs currently offered. One is a full intensity lower beam; in essence, the headlamps come on whenever the car is started. The other is a reduced intensity lower beam, which is accomplished by using voltage/current reduction electronics. Most lower beam DRLs already use reduced intensity, because this prolongs bulb life and increases customer satisfaction. All full intensity lower beam DRLs would have to be modified to use reduced intensity. However, this technology is already in place. Most reduced intensity lower beams will have to have the intensity reduced further to comply with this new 3000 cd limit. This is simply a question of adjusting the voltage/current reduction electronics that are already in place to a lower level. An additional year of leadtime should allow plenty of time to make these changes to lower beam DRLs.

Four years after the final rule, and three years after the new requirements for upper beam DRLs go into effect, lower beam DRLS would be limited to no more than 1500 cd at any point on horizontal or above and all other DRLs would be limited to no more than 1500 cd at any point in the beam. This requirement can be met by using turn signal lamps as DRLs, as 7 percent of GM's 1997 vehicles already do, or by further reducing the intensity of lower beam DRLs. The proposed leadtime is intended to give manufacturers time to decide which choice is appropriate for the DRLs on their vehicles and to design and test the changed DRLS as well as making any necessary changes in the manufacturing process.

NHTSA recognizes that this proposed action has an impact on the agency's efforts to harmonize the Federal motor vehicle safety standards with other countries' safety standards. As has been stated, Canada requires DRLs on new vehicles and requires a minimum of 2000 cd for upper beams and permits a maximum intensity of 7000 cd for upper beam DRLs. Canada also permits full or reduced intensity lower beam headlamps, turn signals, fog lamps and separate DRL lamps. The existing DRL provisions in Standard No. 108 permit DRLs to be installed and allow upper beam headlamp DRLs with a maximum intensity of 7000 cd when mounted at or below 864mm, and with a 3000 cd maximum intensity for other DRLs that do not use lower beam headlamps. Essentially, DRLs that comply with the Canadian requirements except fog lamp DRLs and higher mounted upper beam DRLs would also comply with the existing U.S. requirements. The existing requirements in Standard No. 108 explicitly prohibit fog lamp DRLs in

response to states' concern about enforcement issues.

However, the proposed rule would move the performance requirements for DRLs in the U.S. and Canada further apart. As noted above, Canada requires upper beams to have a minimum intensity of 2000 cd, while NHTSA proposes a maximum intensity for upper beam DRLs of 1500 cd in four years. Thus, upper beam DRLs would not be able to comply with both the U.S. and the present Canadian requirements when run at the same voltage. It is also unlikely that lower beam DRLs will be able to simultaneously comply with U.S. and Canadian requirements. This is because Canada requires that lower beam DRLs operate at not less than 75 percent of the normal operating voltage. Voltage reductions below that level will very likely be required on many lower beam lamps to comply with the proposed specifications. Turn signal DRLs and separate DRL lamps would be able to comply simultaneously with the Canadian requirements and the proposed changes to Standard No. 108. In addition, both upper and lower beam DRLs can use voltage/current reduction electronics to achieve the reduced intensity. It would be possible to use the same electronics package in U.S. and Canadian vehicles, but set the U.S. vehicles at 50 percent voltage and the Canadian vehicles at 75 percent voltage for example. Thus, there would still be a window of harmonization between the two countries' DRL standards, but that window would be much smaller.

NHTSA has discussed DRL glare with a representative of Transport Canada, who indicated interest in reducing DRL glare. But there are almost no public complaints in Canada about DRL glare. As part of the glare reduction, Transport Canada was concerned that lower beams not be precluded from being viable DRLs. The agency's proposal addresses that concern by measuring the intensity limit only at horizontal or above. Transport Canada was also concerned that the wide angle performance of DRLs not be reduced substantially, because that would lessen the peripheral illumination of these lamps and their value as conspicuity enhancement at intersections. In layman's terms, lamps at design intensity typically cast a wide cone of light, but as one decreases the intensity of the lamps, the width of the cone of noticeable light narrows dramatically.

NHTSA has carefully considered this latter point. It agrees with Transport Canada that the intensity reductions needed for lower beam lamps to be used as DRLs will reduce wide angle performance of those DRLs if the reductions are solely from voltage reductions without attendant improvements in beam pattern width and intensity. The need for peripheral performance is demonstrated by the recent Canadian study by Tufflemire and Whitehead, ''An Evaluation of the Impact of Daytime running Lights on Traffic Safety in Canada'' Journal of Safety Research, Winter 1997, where a general reduction of 2.5 percent in angular crashes was found. Thus, while small, this benefit of peripheral detection means that DRL performance should not be so constrained that it loses its wide angle intensity. For DRLs that are intended to comply with Canadian rules, the beam pattern of lower beam headlamps would likely need to be wider and more intense below the horizontal to accommodate the above horizontal intensity reduction proposed for glare reduction. Additionally, NHTSA notes that DRLs that use turn signal lamps, lamps intentionally designed to provide wide angle conspicuity, would address Canada's concern for assuring the maintenance of DRL peripheral detection benefits. Nonetheless, given that the reductions in glare may come at the expense of peripheral performance, NHTSA asks whether it should regulate the minimum intensity performance of DRLs to assure such peripheral performance.

*Proposed Changes to Standard No. 108 and Their Effective Dates*

On the basis of the discussion above, NHTSA is proposing an amendment to paragraph S5.5.11(a) of Standard No. 108 which would become effective one year after publication of the final rule. Within this amendment are differing performance specifications based upon the date of a vehicle's manufacture. Proposed paragraph S5.5.11(a)(1) would apply to vehicles manufactured from the date one year after the publication of the final rule to the date two years after the final rule; it would reduce the maximum permissible intensity for upper beam DRLs from 7000 cd to 3000 cd, and remove specifications that applied before October 1, 1995. Proposed paragraph S5.5.11(a)(2) would apply to vehicles manufactured from two to four years after publication of the final rule; it would limit intensity in a lower beam DRL to a maximum of 3000 candela at any test point at or above the horizontal. Proposed paragraph S5.5.11(a)(3) would apply to vehicles manufactured beginning four years after publication of the final rule; this would limit intensity in a lower beam DRL to a maximum of 1500 cd at any test point at or above the horizontal and limit intensity in any other DRL to 1500 candela at any test point.

**Request for Comments**

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must not exceed 15 pages in length (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting for the information specified in the agency's confidential business information regulation, 49 CFR part 512.

All comments received before the close of business on the comment closing date indicated above for the proposal will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments received too late for consideration in regard to the final rule will be considered as suggestions for further rulemaking action. Comments on the proposal will be available to inspection in the docket. NHTSA will continue to file relevant information as it becomes available in the docket after the closing date and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

**Rulemaking Analyses**

*Executive Order 12866 and DOT Regulatory Policies and Procedures*

The Office of Management and Budget has informed NHTSA that it will not review this rulemaking action under Executive Order 12866. It has been

determined that the rulemaking action is not significant under Department of Transportation regulatory policies and procedures. The effect of the rulemaking action would be to adopt terminology more suitable to new technologies, and it would not impose any additional burden upon any person. Impacts of the proposed rule are, therefore, so minimal as not to warrant preparation of a full regulatory evaluation.

*Regulatory Flexibility Act*

The agency has also considered the effects of this rulemaking action in relation to the Regulatory Flexibility Act. I certify that this rulemaking action would not have a significant economic effect upon a substantial number of small entities. Motor vehicle and lighting equipment manufacturers are generally not small businesses within the meaning of the Regulatory Flexibility Act. Further, small organizations and governmental jurisdictions would not be significantly affected as the price of new motor vehicles should not be impacted. Accordingly, no Regulatory Flexibility Analysis has been prepared.

*Executive Order 12612 (Federalism)*

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612 on ''Federalism.'' It has been determined that the rulemaking action does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

*National Environmental Policy Act*

NHTSA has analyzed this rulemaking action for purposes of the National Environmental Policy Act. The rulemaking action would not have a significant effect upon the environment as it does not affect the present method of manufacturing motor vehicle lighting equipment.

*Civil Justice Reform*

This rule will not have any retroactive effect. Under section 103(d) of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1392(d)), whenever a Federal motor vehicle safety standard is in effect, a state may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard. Section 105 of the Act (15 U.S.C. 1394) sets forth a procedure for judicial review of final rules establishing, amending, or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

**List of Subjects in 49 CFR Part 571**

Imports, Motor vehicle safety, Motor vehicles, Reporting and recordkeeping requirements.

In consideration of the foregoing, it is proposed that 49 CFR part 571 be amended as follows:

## PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

1. The authority citation for part 571 continues to read as follows:

**Authority:** 49 U.S.C. 322, 30111, 30115, 30117, 30166; delegation of authority at 49 CFR 1.50.

2. Section 571.108 would be amended by revising paragraph S5.5.11(a) to read as follows:

### § 571.108 Standard No. 108; Lamps, reflective devices, and associated equipment.

* * * * *

S5.5.11(a) Any pair of lamps on the front of a passenger car, multipurpose passenger vehicle, truck, or bus, whether or not required by this standard, other than parking lamps or fog lamps, may be wired to be automatically activated, as determined by the manufacturer of the vehicle, in a steady burning state as daytime running lamps (DRLs) and to be automatically deactivated when the headlamp control is in any ''on'' position, and as otherwise determined by the manufacturer of the vehicle, provided that each such lamp:

(1) On a vehicle manufactured on or after [one year after publication of the final rule] and before [two years after publication of the final rule]:

(i) Has a luminous intensity not less than 500 candela at test point H–V, nor more than 3,000 candela at any location in the beam, when tested in accordance with S11 of this standard, unless it is a lower beam headlamp intended to operate as a DRL at full voltage, or at a voltage lower than used to operate it as a lower beam headlamp;

(ii) Is permanently marked ''DRL'' on its lens in letters not less than 3 mm high, unless it is optically combined with a headlamp;

(iii) Is designed to provide the same color as the other lamp in the pair, and that it is one of the following colors as defined in SAE Standard J578 MAY88: White, white to yellow, white to selective yellow, selective yellow, or yellow;

(iv) If not optically combined with a turn signal lamp, is located so that the distance from its lighted edge to the optical center of the nearest turn signal lamp is not less than 100 mm. unless:

(A) The luminous intensity of the DRL is not more than 2,600 cd. at any location in the beam and the turn signal meets the requirements of S5.3.1.7; or

(B) The DRL is optically combined with the headlamp and the turn signal lamp meets the requirements of S5.3.1.7; or

(C) The DRL signal is deactivated when the turn signal or hazard warning signal lamp is activated;

(v) If optically combined with a turn signal lamp, is automatically deactivated as a DRL when the turn signal lamp or hazard warning lamp is activated, and automatically reactivated as a DRL when the turn signal lamp or hazard warning lamp is activated;

(2) On a vehicle manufactured between [two years after publication of the final rule] and [four years after publication of the final rule]:

(i) Has a luminous intensity not less than 500 candela at test point H–V, nor more than 3,000 candela at any location in the beam, when tested in accordance with S11 of this standard, unless it is a lower beam headlamp intended to operate as a DRL in which case it shall have a luminous intensity of not less than 500 candela at test point H–V and not more than 3,000 candela at any point on the H–H line or above;

(ii) Is permanently marked ''DRL'' on its lens in letters not less than 3 mm high, unless it is optically combined with a headlamp;

(iii) Is designed to provide the same color as the other lamp in the pair, and that it is one of the following colors as defined in SAE Standard J578 MAY88: White, white to yellow, white to selective yellow, selective yellow, or yellow;

(iv) If not optically combined with a turn signal lamp, is located so that the distance from its lighted edge to the optical center of the nearest turn signal lamp is not less than 100 mm. unless:

(A) The luminous intensity of the DRL is not more than 2,600 cd. at any location in the beam and the turn signal meets the requirements of S5.3.1.7; or

(B) The DRL is optically combined with the headlamp and the turn signal lamp meets the requirements of S5.3.1.7; or

(C) The DRL signal is deactivated when the turn signal or hazard warning signal lamp is activated;

(v) If optically combined with a turn signal lamp, is automatically deactivated as a DRL when the turn signal lamp or hazard warning lamp is activated, and automatically reactivated as a DRL when the turn signal lamp or hazard warning lamp is activated;

(3) On a vehicle manufactured on or after [four years after publication of the final rule]:

(i) Has a luminous intensity not less than 500 candela at test point H–V, nor more than 1,500 candela at any location in the beam, when tested in accordance with S11 of this standard, unless it is a lower beam headlamp intended to operate as a DRL, in which case it shall have a luminous intensity of not less than 500 candela at test point H–V and not more than 1,500 candela at any point on the H–H line or above;

(ii) Is permanently marked ''DRL'' on its lens in letters not less than 3 mm high, unless it is optically combined with a headlamp;

(iii) Is designed to provide the same color as the other lamp in the pair, and that it is one of the following colors as defined in SAE Standard J578 MAY88: White, white to yellow, white to selective yellow, selective yellow, or yellow;

(iv) If not optically combined with a turn signal lamp, is located so that the distance from its lighted edge to the optical center of the nearest turn signal lamp is not less than 100 mm. unless:

(A) The DRL is optically combined with the headlamp and the turn signal lamp meets the requirements of S5.3.1.7; or

(B) The DRL signal is deactivated when the turn signal or hazard warning signal lamp is activated;

(v) If optically combined with a turn signal lamp, is automatically deactivated as a DRL when the turn signal lamp or hazard warning lamp is activated, and automatically reactivated as a DRL when the turn signal lamp or hazard warning lamp is activated.

* * * * *

Issued on: July 31, 1998.

**L. Robert Shelton,**

*Associate Administrator for Safety Performance Standards.*

[FR Doc. 98–20918 Filed 8–6–98; 8:45 am]

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# Notices

Federal Register
Vol. 63, No. 152
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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

August 3, 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, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, D.C. 20503 *and* to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, D.C. 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.

### Agricultural Marketing Service

*Title:* Customer Service Survey for USDA—Donated Food Products.

*OMB Control Number:* 0581–NEW.

*Summary of Collection:* Each year the Agricultural Marketing Service (AMS) procures about $700 million of poultry, livestock, fruit, and vegetable products for the school lunch and other domestic feeding programs under authority of 7 CFR 250, Regulations for the Donation of Foods for Use in the United States, its Territories and Possessions and Areas Under its Jurisdiction. To maintain and improve the quality of these products, AMS has sought to make this process more customer-driven and therefore is seeking opinions from the users of these products. AMS will use AMS–11, ''Customer Opinion Postcard,'' to collect information. Customers that use USDA-procured commodities to prepare and serve meals retrieve these cards from the boxes and use them to rate their perception of product flavor, texture, and appearance as well as overall satisfaction.

*Need and Use of the Information:* AMS will collect information on the product type, production lot, and identity and type of facility in which the product was served. USDA program managers will use survey responses to maintain and improve product quality through the revision of USDA commodity specifications and follow-up action with producers of designated production lots.

*Description of Respondents:* State, Local or Tribal Government; Not-for-profit institutions.

*Number of Respondents:* 8,400.

*Frequency of Responses:* Reporting: On occasion.

*Total Burden Hours:* 700.

### National Agricultural Statistical Service

*Title:* Field Crops Production.

*OMB Control Number:* 0535–0002.

*Summary of Collection:* One of the National Agricultural Statistics Service's (NASS) primary functions is to prepare and issue current state and national estimates of crop production. To help set these estimates, field crops production data is collected. NASS will collect information through the use of mail, telephone, and personnel interview surveys.

*Need and Use of the Information:* NASS collects information on field crops to monitor agricultural developments across the country which may impact on the nation's food supply. The Secretary of Agriculture uses estimates of crop production to administer farm program legislation and to make decisions relative to the export-import programs.

*Description of Respondents:* Farms, Business or other for-profit.

*Number of Respondents:* 327,207.

*Frequency of Responses:* Reporting: On occasion; Semi-annually; Annually.

*Total Burden Hours:* 119,350.

### Animal and Plant Health Inspection Service

*Title:* Swine Health Protection.

*OMB Control Number:* 0579–0065.

*Summary of Collection:* Title 21, U.S.C. authorizes the Secretary and the Animal and Plant Health Inspection Service (APHIS) to prevent, control and eliminate domestic diseases, as well as to take actions to prevent and to manage exotic diseases such as hog cholera, foot-and-mouth disease, and other foreign diseases. Disease prevention is the most effective method for maintaining a healthy animal population and enhancing our ability to compete in the world market of animals and animal products trade. Garbage is one of the primary media through which numerous infections or communicable diseases of swine are transmitted. The Act and the regulations will allow only operators of garbage treatment facilities which meet certain specifications to utilize garbage for swine feeding. APHIS will use various forms to collect information on garbage treatment facilities and their operating practices.

*Need and Use of the Information:* APHIS collects information from persons desiring to obtain a permit (license) to operate a facility to treat garbage. Prior to issuance of a license, an inspection will be made of the facility by an authorized representative to determine if it meets all requirements of the regulations. Periodic inspections will be made to determine if licenses are meeting the standards for operation of their approved facilities. Upon receipt of the information from the Public Health Officials, the information is used by Federal or State animal health personnel to determine whether the waste collector is feeding garbage to swine, whether it is being treated, and

whether the feeder is licensed or needs to be licensed.

*Description of Respondents:* Farms; Business or other for-profit.

*Number of Respondents:* 264.

*Frequency of Responses:* Recordkeeping; Reporting: On occasion.

*Total Burden Hours:* 584.

**Rural Housing Service**

*Title:* 7 CFR Part 1951–F, Analyzing Credit Needs and Graduation of Borrowers.

*OMB Control Number:* 0575–0093.

*Summary of Collection:* Section 333 of the Consolidated Farm and Rural Development Act and Section 502 of the Housing Act of 1949, require the Rural Housing Service (RHS), the Rural Business-Cooperative Service (RBS), and the Farm Service Agency (FSA) to graduate their direct loan borrowers to other credit when they are able to do so. Graduation is an integral part of Agency lending, as Government loans are not meant to be extended beyond a borrower's need for subsidized rates or non-market terms. The notes, security instruments, or loan agreements of most borrowers require borrowers to refinance their Agency loans when other credit becomes available at reasonable rates and terms. If a borrower finds other credit is not available at reasonable rates and terms, the Agency will continue to review the borrower for possible graduation at periodic intervals. Information will be collected from the borrowers concerning their loans.

*Need and Use of the Information:* The information collected will include financial data such as amount of income, farm operating expenses, asset values, and liabilities. The information collected is submitted by FSA, RBS, or RHS borrowers to Agency offices. The information will be used in the Agency's efforts to graduate direct borrowers to private credit with or without the use of Agency loan guarantees.

*Description of Respondents:* Individuals or households; Business or other for-profit; Farms; State, Local or Tribal Government.

*Number of Respondents:* 22,512.

*Frequency of Responses:* Reporting: Annually.

*Total Burden Hours:* 91,538.

**Farm Service Agency**

*Title:* Dairy Indemnity Payment Program—7 CFR Part 769.

*OMB Control Number:* 0560–0116.

*Summary of Collection:* The Dairy Indemnity Payment Program (DIPP) was originally authorized by Section 331 of the Economic Opportunity Act of 1967 (78 State. 508). This program indemnifies dairy producers and manufacturers in dollars based on milk they would have marketed if the public agency had not removed their milk or milk products from the commercial market. The DIPP indemnifies dairy farmers and manufacturers of dairy products who, suffer income losses with respect to milk or milk products removed from commercial markets because such milk or milk products contain certain harmful residues, chemicals, or contamination by nuclear radiation or fallout. The Farm Service Agency (FSA) will use form FSA–373 (Application for Indemnity Payment) to collect information to determine the amount of loss a dairy farmer or manufacturer has incurred due to contamination by pesticides, toxic substances, nuclear radiation or fallout.

*Need and Use of the Information:* FSA collects information from the producer and milk handler to determine the amount of the producer's indemnity payment. Without the information, FSA would not know the extent of a dairy farmer's loss and indemnity payments could not be approved.

*Description of Respondents:* Farms; Individuals or households; Business or other for-profit.

*Number of Respondents:* 80.

*Frequency of Responses:* Reporting: Monthly.

*Total Burden Hours:* 140.

**Farm Service Agency**

*Title:* Servicing of Real Estate Security and Certain Note Only Cases—7 CFR Part 1965A.

*OMB Control Number:* 0560–0158.

*Summary of Collection:* The Farm Service Agency's (FSA) Farm Loan Program (FLP) provides supervised credit in the form of loans to family farmers and ranchers to purchase land and finance agricultural production. This regulation is promulgated to implement selected provisions of sections 331 and 335 of the Consolidated Farm and Rural Development Act [P.L. 87–128 as amended through P.L. 104–130]. Section 331 authorizes the Secretary of Agriculture to grant releases from personal liability where security property is transferred to approved applicants who, under agreement, assume the outstanding secured indebtedness. That section also authorizes the Secretary to grant partial releases and subordinations of mortgages, subject to certain conditions, and to consent to leases of security and transfer of security property. Section 335 provides servicing authority for real estate security; operation or lease of realty; disposition of surplus property; conveyance of complete interest of the United States; easements; and condemnation.

*Need and Use of the Information:* FSA will collect information through the use of several forms and information that is related to a program benefit recipient or loan borrower requesting action on security which they own, which was purchased with FSA loan funds, improved with FSA loan funds or has otherwise been mortgaged to the Agency to secure a government loan. This regulation is now used solely by the Farm Loan Programs of the Farm Service Agency. It prescribes policies and procedures for servicing real estate, leaseholds, and certain note-only security for FSA farm loans. Servicing will be carried out in accordance with the security instruments and related agreements, including any authorized modifications, providing the borrower has: (a) a reasonable prospect of accomplishing the loan objectives, (b) properly maintains and account for the security, and (c) otherwise meets the loan obligation.

*Description of Respondents:* Farms; Individuals or households; Business or other for-profit.

*Number of Respondents:* 15,226.

*Frequency of Responses:* Reporting: On occasion.

*Total Burden Hours:* 6,421.

**Rural Housing Service**

*Title:* Guaranteed Rural Rental Housing Program handbook in Support of 7 CFR Part 3565.

*OMB Control Number:* 0575–NEW.

*Summary of Collection:* On March 28, 1996, President Clinton signed the ''Housing Opportunity Program Extension Act of 1996.'' One of the provisions of the Act was adding the authorization of the section 538 Guaranteed Rural Rental Housing Program (GRRHP) to the Housing Act of 1949. The purpose of the GRRHP is to increase the supply of affordable rural rental housing through the use of loan guarantees that encourage partnerships between the Rural Housing Service (RHS), private lenders and public agencies. Under the program, RHS will provide credit enhancements to encourage private and public lenders to make new loans for affordable rental properties that meet program standards. RHS will approve qualified lenders to participate and will monitor lender performance to ensure program requirements are met.

*Need and Use of the Information:* RHS will use information from the GRRHP Handbook to provide lenders and Agency staff with guidance on the

origination and servicing of GRRHP loans and the approval of qualified lenders. RHS will collect information to manage, plan, evaluate, and account for Government resources in conjunction with the Guaranteed Rural Rental Housing Program. The information collected is necessary to ensure the proper and judicious use of public funds.

*Description of Respondents:* Business or other for-profit; Not-for-profit institutions.

*Number of Respondents:* 50.

*Frequency of Responses:* Reporting: Quarterly; Monthly; Annually.

*Total Burden Hours:* 854.75.

Emergency approval for this information collection has been requested by August 7, 1998.

**Food Safety and Inspection Service**

*Title:* Pathogen Reduction/Hazard Analysis and Critical Control Point (HACCP) System.

*OMB Control Number:* 0583–0103.

*Summary of Collection:* The Food Safety and Inspection Service (FSIS) has been delegated the authority to exercise the functions of the Secretary as provided in the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601) and the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451). These statutes mandate that FSIS protect the public by ensuring the meat and poultry products are safe, wholesome, unadulterated, and properly labeled and packaged. FSIS has begun to build the principle of prevention into its inspection program and requires regulated establishments to prepare operating plans and continuously report performance against the plans.

*Need and Use of the Information:* Information will be collected from establishments as proof that standard operating plans have been developed. Additionally, information must be reported and pertinent records maintained on the occurrence and numbers of pathogenic microorganisms on meat and poultry products. FSIS will use this information during the inspection process and to determine whether an establishment should change its operating procedures so that the public's health is protected.

*Description of Respondents:* Business or other for-profit.

*Number of Respondents:* 7,374.

*Frequency of Responses:* Recordkeeping; Reporting: On occasion; Other (daily).

*Total Burden Hours:* 30,686.

**Nancy Sternberg,**

*Departmental Information Clearance Officer.*

[FR Doc. 98–21116 Filed 8–6–98; 8:45 am]

BILLING CODE 3410–01–M

## DEPARTMENT OF AGRICULTURE

### Agricultural Research Service

### Notice of Federal Invention Available for Licensing and Intent To Grant Exclusive License

**AGENCY:** Agricultural Research Service, USDA.

**ACTION:** Notice of availability and intent.

**SUMMARY:** Notice is hereby given that a Federally owned invention identified as ARS Docket No. 0155.98, entitled ''Avian Leukosis Virus Subgroup J Envelope Gene Product for Diagnosis and Vaccine'' is available for licensing and the U.S. Department of Agriculture, Agricultural Research Service, intends to grant to Kirkegaard & Perry Laboratories of Gaithersburg, Maryland, an exclusive license to ARS Docket No. 0155.98.

**DATES:** Comments must be received on or before November 5, 1998.

**ADDRESSES:** Send comments to: USDA, ARS, Office of Technology Transfer, Room 415, Building 005, BARC-West, Beltsville, Maryland 20705–2350.

**FOR FURTHER INFORMATION CONTACT:** June Blalock of the Office of Technology Transfer at the Beltsville address given above; telephone: 301–504–5989.

**SUPPLEMENTARY INFORMATION:** The Federal Government's patent rights to this invention are assigned to the United States of America, as represented by the Secretary of Agriculture. It is in the public interest to so license this invention as Kirkegaard & Perry Laboratories has submitted a complete and sufficient application for a license. The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within ninety (90) days from the date of this published Notice, the Agricultural Research Service receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

**Richard M. Parry, Jr.,**

*Assistant Administrator.*

[FR Doc. 98–21117 Filed 8–6–98; 8:45 am]

BILLING CODE 3410–03–P

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Southwest Oregon Provincial Interagency Executive Committee (PIEC), Advisory Committee

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of meeting.

**SUMMARY:** The Southwest Oregon PIEC Advisory Committee will meet on August 25, 1998 in Gold Beach, Oregon.

The meeting will begin at 9:00 a.m. and continue until 5:00 p.m. Agenda items to be covered include: (1) review of committee operating guides; (2) final version of issues and work plan for Advisory Committee; (3) demonstration of compact disk containing geographic information across all ownerships within the province; (4) local issue presentation by Siskiyou National Forest; (5) Timber, monitoring, and aquatic conservation strategy subcommittees will develop action plans for their assigned tasks; (7) public comment. All Province Advisory Committee meetings are open to the public.

**FOR FURTHER INFORMATION CONTACT:** Direct questions regarding this meeting to Chuck Anderson, Province Advisory Committee staff, USDA, Forest Service, Rogue River National Forest, 333 W. 8th Street, Medford, Oregon 97501, phone 541–858–2322.

Date: August 3, 1998.

**James T. Gladen,**

*Forest Supervisork, Designated Federal Official.*

[FR Doc. 98–21248 Filed 8–6–98; 8:45 am]

BILLING CODE 3410–11–M

## COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

### Procurement List; Additions and Deletions

**AGENCY:** Committee for Purchase From People Who Are Blind or Severely Disabled.

**ACTION:** Additions to and Deletions from the Procurement List.

**SUMMARY:** This action adds to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes from the Procurement List commodities previously furnished by such agencies.

**EFFECTIVE DATE:** September 8, 1998.

**ADDRESSES:** Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Gateway 3, Suite 310, 1215 Jefferson Davis Highway, Arlington, Virginia 22202–4302.

**FOR FURTHER INFORMATION CONTACT:** Beverly Milkman (703) 603–7740.

**SUPPLEMENTARY INFORMATION:** On June 12 and 26, 1998, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (63 FR 32190 and 34848) of proposed additions to and deletions from the Procurement List:

## Additions

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the services and impact of the additions on the current or most recent contractors, the Committee has determined that the services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.

2. The action will not have a severe economic impact on current contractors for the services.

3. The action will result in authorizing small entities to furnish the services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List.

Accordingly, the following services are hereby added to the Procurement List:

*Administrative Services*

General Services Administration, Federal Protective Services, 255 East Temple, Los Angeles, California

Base Supply Center, Malmstrom Air Force Base, Montana

Base Supply Center, U.S. Naval Station, Roosevelt Roads, Building 1207, Ceiba, Puerto Rico

Food Service Attendant, Holloman Air Force Base, New Mexico

Janitorial/Custodial, United States Geological Survey Building, Colorado School of Mines, 1711 Illinois Street, Golden, Colorado

Switchboard Operation, Davis-Monthan Air Force Base, Arizona

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

## Deletions

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action will not have a severe economic impact on future contractors for the commodities.

3. The action will result in authorizing small entities to furnish the commodities to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities deleted from the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the commodities listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Accordingly, the following commodities are hereby deleted from the Procurement List:

Tray, Fiberboard, Three-Sided
P.S. Item 136

Tray, Fiberboard, Three-Sided
P.S. Item No. D–3915

Pad, Litter
6530–00–137–3016

Tube, Bleeding
6630–01–NIB–0001

**Beverly L. Milkman,**

*Executive Director.*

[FR Doc. 98–21232 Filed 8–6–98; 8:45 am]

BILLING CODE 6353–01–P

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## COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

## Procurement List; Proposed Additions and Deletions

**AGENCY:** Committee for Purchase From People Who Are Blind or Severely Disabled.

**ACTION:** Proposed Additions to and Deletions from Procurement List.

**SUMMARY:** The Committee has received proposals to add to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and to delete commodities previously furnished by such agencies.

**COMMENTS MUST BE RECEIVED ON OR BEFORE:** September 8, 1998.

**ADDRESSES:** Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Gateway 3, Suite 310, 1215 Jefferson Davis Highway, Arlington, Virginia 22202–4302.

**FOR FURTHER INFORMATION CONTACT:** Beverly Milkman (703) 603–7740.

**SUPPLEMENTARY INFORMATION:** This notice is published pursuant to 41 U.S.C. 47(a) (2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

## Additions

If the Committee approves the proposed addition, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodities and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities. I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and services to the Government.

2. The action does not appear to have a severe economic impact on current contractors for the commodities and services.

3. The action will result in authorizing small entities to furnish the commodities and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and services proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following commodities and services have been proposed for addition to Procurement List for production by the nonprofit agencies listed:

*Commodities*

Module, Medical System

8465–00–NSH–0063
NPA: Fairfax Opportunities Unlimited, Inc. Alexandria, Virginia
Water Bag, Nylon Duck
8465–01–321–1678
8465–01–321–1678F
NPA: Raleigh Lions Clinic for the Blind, Inc. Raleigh, North Carolina

*Services*

Administrative Services, U.S. Coast Guard Academy, New London, Connecticut
NPA: Easter Seal Rehabilitation Center of Southeastern Connecticut, Uncasville, Connecticut
Food Service Attendant, U.S. Air Force Reserve Center, 182nd Airlift Wing, 2416 South Falcon Boulevard, Peoria, Illinois
NPA: Community Workshop & Training Center, Peoria, Illinois
Grounds Maintenance, Indiana USARC 443 Route 119 North Indiana, Pennsylvania
NPA: ICW Vocational Services, Inc., Indiana, Pennsylvania

*Janitorial/Custodial*

VA Outpatient Clinic, 1801 Westwind Drive, Bakersfield, California
NPA: The Bakersfield Association for Retarded Citizens, Inc., Bakersfield, California
Old Executive Office Building, 17th and Pennsylvania Avenue, NW, Washington, DC
NPA: Melwood Horticultural Training Center, Upper Marlboro, Maryland
Vice President Living Quarters, Naval Observatory, Washington, DC
NPA: Melwood Horticultural Training Center, Upper Marlboro, Maryland
Building R–20, Naval Air Station, Whidbey Island, Washington
NPA: New Leaf, Inc., Oak Harbor, Washington

*Recycling Service*

Francis E. Warren Air Force Base, Wyoming
NPA: Magic City Enterprises, Inc., Cheyenne, Wyoming

## Deletions

I certify that the following action will not have a signicant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action does not appear to have a severe economic impact on future contractors for the commodities.

3. The action will result in authorizing small entities to furnish the commodities to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities proposed for deletion from the Procurement List.

The following commodities have been proposed for deletion from the Procurement List:

Bulletin Board
7195–00–990–0615
7195–00–989–2370
7195–00–843–7938
7195–00–844–9038
7195–00–844–9037
7195–00–989–2372
7195–00–989–2371
7195–00–844–9036
Rinse Additive, Dishwashing
7930–00–619–9573
Paper, Kraft Wrapping
8135–00–160–7770

**Beverly L. Milkman,**

*Executive Director.*

[FR Doc. 98–21233 Filed 8–6–98; 8:45 am]

BILLING CODE 6353–01–P

## DEPARTMENT OF COMMERCE

### Submission for OMB Review; Comment Request

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

*Agency:* Bureau of the Census.

*Title:* Questionnaire Pretesting Research.

*Form Number(s):* Various.

*Agency Approval Number:* 0607–0725.

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

*Burden:* 5,500 hours.

*Number of Respondents:* 5,500.

*Avg Hours Per Response:* 1 hour.

*Needs and Uses:* The Census Bureau maintains a generic clearance which relaxes some of the time constraints and enables the Census Bureau to conduct extended cognitive and questionnaire design research as part of testing for the censuses and surveys it conducts. This research program is used by the Census Bureau and survey sponsors to improve questionnaires and procedures, reduce respondent burden, and ultimately increase the quality of data collected in Census Bureau censuses and surveys. Pretesting activities are generally small-scale and involve one of the following methods for identifying measurement problems with the questionnaire or survey procedure: cognitive interviews, focus groups, respondent debriefings, field tests, and split sample experiments.

A block of burden hours is reserved at the beginning of each year, and the particular activities that will be conducted under the clearance are not specified in advance. The Census Bureau provides information to OMB about the specific pretesting activities on a flow basis throughout the year. OMB is notified of each pretesting activity in a letter that gives specific details about the activity, rather than by means of individual clearance packages. At the end of each year, a report is submitted to OMB that summarizes the number of hours used as well as the nature and results of the activities completed under the clearance.

Two changes are proposed to the current clearance. First, we plan to include the possibility of research about incentives. Second, we plan to increase the burden by 1,000 hours to cover the possibility of split panel experiments with multiple (more than 2) panels.

*Affected Public:* Individuals or households, Businesses or other for-profit organizations, Farms.

*Frequency:* On occasion.

*Respondent's Obligation:* Voluntary.

*Legal Authority:* Since many different surveys sponsored by the Census Bureau and other Federal Agencies may be pretested under this clearance, many different authorities may apply. For Census Bureau sponsored surveys, the following may apply: Title 13 U.S.C., Sections 131, 141, 142, 161, 181, 193, and 301. For surveys sponsored by other Federal agencies, Title 15 U.S.C., Section 1525 and/or other authorities will apply.

*OMB Desk Officer:* Nancy Kirkendall, (202) 395–7313.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Nancy Kirkendall, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: August 3, 1998.

**Linda Engelmeier,**

*Departmental Forms Clearance Officer, Office of the Chief Information Officer.*

[FR Doc. 98–21119 Filed 8–6–98; 8:45 am]

BILLING CODE 3510–07–P

**DEPARTMENT OF COMMERCE**

**International Trade Administration**

**[A–412–803]**

## Industrial Nitrocellulose From the United Kingdom; Preliminary Results of Antidumping Duty Administrative Review

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

**ACTION:** Notice of Preliminary Results of Antidumping Duty Administrative Review; Industrial Nitrocellulose from the United Kingdom.

**SUMMARY:** The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on industrial nitrocellulose (INC) from the United Kingdom in response to a request by petitioner, Hercules Incorporated. This review covers exports of subject merchandise to the United States during the period July 1, 1996 through June 30, 1997.

We have preliminarily determined that sales have been made below normal value (NV). If these preliminary results are adopted in our final results, we will instruct the U.S. Customs Service to assess antidumping duties based on the difference between the constructed export price (CEP) and the NV. Interested parties are invited to comment on these preliminary results. Parties who submit comments are requested to submit with each comment (1) a statement of the issue and (2) a brief summary of the comment.

**EFFECTIVE DATE:** August 7, 1998.

**FOR FURTHER INFORMATION CONTACT:** Gideon Katz or Maureen Flannery, AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington D.C. 20230; telephone (202) 482–5255 or (202) 482–3020.

### Applicable Statute and Regulations

Unless otherwise stated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act. In addition, unless otherwise stated, all citations to the Department's regulations are references to the regulations as codified at 19 CFR Part 351 (62 FR 27296, May 19, 1997).

**SUPPLEMENTARY INFORMATION:**

### Background

The Department published in the **Federal Register** the antidumping duty order on INC from the United Kingdom on July 10, 1990 (55 FR 28270). On July 21, 1997, we published in the **Federal Register** (62 FR 38973) a notice of opportunity to request an administrative review of the antidumping duty order on INC from the United Kingdom covering the period July 1, 1996 through June 30, 1997.

In accordance with 19 CFR 351.221, petitioner requested that we conduct an administrative review of sales of subject merchandise made by respondent, Imperial Chemical Industries PLC (ICI). We published a notice of initiation of this antidumping duty administrative review on August 28, 1997 (62 FR 45622). Under section 751(a)(3)(A) of the Act, the Department may extend the deadline for completion of administrative reviews if it determines that it is not practicable to complete the review within the established time limit. The Department published a notice of extension of the time limit for the preliminary results in this case on February 17, 1998. *See Industrial Nitrocellulose from the United Kingdom: Notice of Extension of Time Limits for Preliminary Results of Antidumping Administrative Review,* 63 FR 7756 (February 17, 1998). The Department is conducting this administrative review in accordance with section 751(a) of the Act.

### Scope of the Review

This review covers shipments of INC from the United Kingdom. INC is a dry, white, amorphous synthetic chemical with a nitrogen content between 10.8 and 12.2 percent, which is produced from the reaction of cellulose with nitric acid. It is used as a film-former in coatings, lacquers, furniture finishes, and printing inks. INC is currently classifiable under Harmonized Tariff Schedule (HTS) item number 3912.20.00. Although HTS subheadings are provided for convenience and Customs purposes, the written description of the scope of this order remains dispositive. The scope of the antidumping order does not include explosive grade nitrocellulose, which has a nitrogen content of greater than 12.2 percent.

This review covers sales of the subject merchandise manufactured by ICI and entered into the United States during the period July 1, 1996 through June 30, 1997.

### Verification

As provided in section 782(i) of the Act, we verified information provided by ICI using standard verification procedures, including on-site inspection of the manufacturer's facilities, examination of relevant sales and financial records, and selection of original documentation containing relevant information. Our verification results are outlined in the verification reports.

### Constructed Export Price

Respondent reported U.S. sales as export price (EP) sales, claiming that, although an affiliated U.S. company, ICI Americas Inc. (ICIA), was involved in the sales process, ICIA's role involved no more than processing paperwork, and that all of ICI's U.S. sales were actually made in the United Kingdom.

We examined the facts of this case in light of the statute and our past practice regarding EP and CEP sales and have preliminarily determined that respondent's U.S. sales are properly classified as CEP sales. Section 772(b) of the Act defines CEP as ''the price at which the subject merchandise is first sold (or agreed to be sold) *in the United States* before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter, as adjusted * * *.'' (emphasis added).

Section 772(a) of the Act defines EP as ''the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States, as adjusted * * *.''

When sales are made prior to importation through an affiliated or unaffiliated U.S. sales agent to an unaffiliated customer in the United States, our practice is to examine several criteria in order to determine whether the sales are EP sales. Those criteria are: (1) whether the merchandise was shipped directly from the manufacturer to the unaffiliated U.S. customer; (2) whether this was the customary commercial channel between the parties involved; and (3) whether the function of the U.S. selling agent was limited to that of a ''processor of sales-related documentation'' and a ''communications link'' with the unaffiliated U.S. buyer. Where all three criteria are met, indicating that the activities of the U.S. selling agent are ancillary to the sale, the Department has classified the sales as EP sales. Where one or more of these conditions are not

met, indicating that the U.S. sales agent is substantially involved in the U.S. sales process, the Department has classified the sales in question as CEP sales. *See, e.g., Certain Cold-Rolled and Corrosion-Resistant Carbon Steel Flat Products From Korea: Final Results of Antidumping Duty Administrative Reviews,* 63 FR 13170 (March 18, 1998) wherein the Department determined that where a U.S. affiliate is involved in making a sale, it normally considers the sale to be a CEP transaction unless the record demonstrates that the U.S. affiliate's involvement in making the sale is incidental or ancillary (*see, also, Viscose Rayon Staple Fiber from Finland: Final Results of Antidumping Duty Administrative Review,* 63 FR 32820 (June 16, 1998)).

In the instant review, the fact that the subject merchandise was shipped directly from ICI to the unaffiliated U.S. customers and that this was the customary commercial channel between these parties is not disputed. However, ICI contracted a U.S. selling agent whose duties included sales solicitation and price negotiation. Discussion of these two functions in a public notice is not possible due to their proprietary nature. See U.S. Verification Report.

Because of ICI's agent's involvement in sales solicitation and price negotiation, we determine that ICI's U.S. selling agent is substantially involved in the sales process for INC. As indicated by our analysis of the third factor listed above, in this case, the function of the U.S. selling agent is not limited to that of a ''processor of sales-related documentation'' and a ''communications link'' with the unaffiliated U.S. buyer. *See U.S. Steel Group* v. *United States,* CIT Slip Op. 98–96 (July 7, 1998) (upholding the Department's CEP determination in *Certain Cut-to-Length Carbon Steel Plate from Germany: Final Results of Antidumping Administrative Review,* 62 FR 18390, which was largely based on the Department's discovery at verification that the U.S. importer was authorized to negotiate sales terms without prior approval from the exporter/producer).

Therefore, ICI's U.S. sales process does not satisfy all of the three criteria for EP treatment. Accordingly, we determine that ICI's U.S. sales are properly treated as CEP transactions. We calculated CEP as defined in section 772(b) of the Act. We based CEP on the packed, delivered prices to unaffiliated purchasers in the United States. We made adjustments for rebates. We made deductions for movement expenses, including international freight, other U.S. transportation expenses, marine insurance, brokerage and handling, and U.S. customs duties, in accordance with section 772(c)(2)(A) of the Act.

In accordance with section 772(d)(1) of the Act, we deducted commissions for selling INC in the United States, credit expenses, and indirect selling expenses. Finally, we made an adjustment for the profit allocated to selling expenses incurred in the United States, in accordance with section 772(d)(3) of the Act.

**Normal Value**

Based on a comparison of the aggregate quantity of home market and U.S. sales, we determined that the quantity of foreign like product sold in the home market was sufficient to permit a proper comparison with the sales of the subject merchandise to the United States, pursuant to section 773(a) of the Act. Therefore, in accordance with section 773(a)(1)(B)(i) of the Act, we based NV on the price (exclusive of value-added tax (VAT)) at which the foreign like product was first sold for consumption in the home market, in the usual commercial quantities and in the ordinary course of trade, and at the same level of trade as the CEP sale.

Under 19 CFR 351.403(c), we excluded sales to one affiliated customer in calculating NV because we determined that sales to this customer were not made at arm's length prices (i.e., at prices comparable to prices at which the firm sold identical merchandise to unaffiliated customers).

We based NV on packed, delivered prices to unaffiliated purchasers in the home market. We made adjustments, where applicable, in accordance with section 773(a)(6) of the Act. Where applicable, we made adjustments to home market price for billing adjustments, rebates, discounts, and inland freight. We also made a deduction for home market credit, pursuant to section 773(a)(6)(C)(iii) of the Act. We deducted home market indirect selling expenses, up to the amount of U.S. commissions. In order to adjust for differences in packing between the two markets, we increased home market price by U.S. packing costs and reduced it by home market packing costs. Prices were reported net of VAT and, therefore, no deduction for VAT was necessary.

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales in the United Kingdom at the same level of trade (LOT) as the CEP transactions. The NV LOT is that of the starting-price sales in the comparison market. The U.S. LOT is the level of the constructed sale from the exporter to the importer.

To evaluate LOTs, we examined information regarding the distribution systems in both the U.S. and Canadian markets, including the selling functions, classes of customer, and selling expenses for each respondent. We determined that in this case the NV LOT was identical to the CEP LOT.

**Price-to-Price Comparisons**

Pursuant to section 777A(d)(2), we compared the CEPs of individual transactions to the monthly weighted-average prices of sales of the foreign like product.

**Preliminary Results of the Review**

As a result of our comparison of CEP and NV, we preliminarily determine that the following weighted-average dumping margin exists:

| Manufacturer/ exporter | Period | Margin (per-cent) |
|---|---|---|
| Imperial Chemical Industries PLC ..... | 7/1/96–6/30/97 | 16.48 |

Parties to the proceeding may request disclosure within 5 business days of the date of publication of this notice. Any interested party may request a hearing within 30 days of publication. Pursuant to 19 CFR 351.310, any hearing, if requested, will be held 2 days after the date rebuttal briefs are due, or the first workday thereafter. Interested parties may submit case briefs within 30 days of the date of publication of this notice. Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed not later than 5 days after the time limit for filing the case brief. The Department will publish a notice of final results of this administrative review, which will include the results of its analysis of issues raised in any such comments, not later than 120 days after the date of publication of this notice.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Upon completion of this review, the Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit rates will be effective upon publication of the final results of this administrative review for all shipments of INC from the United Kingdom entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(c) of the Act: (1) the cash deposit rate for the reviewed

company will be the rate established in the final results of this review; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in the original investigation of sales at less than fair value (LTFV) or a previous review, the cash deposit will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this or a previous review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) for all other producers and/or exporters of this merchandise, the cash deposit rate shall be 11.13 percent, the ''all others'' rate established in the LTFV investigation (55 FR 21058, May 22, 1990).

These deposit rates, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a preliminary reminder to importers of their responsibility to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This determination is issued and published in accordance with sections 751(a)(1) of the Act (19 U.S.C. 1675(a)) and 19 CFR 351.213.

Dated: July 30, 1998.

**Joseph A. Spetrini,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 98–21229 Filed 8–6–98; 8:45 am]

**BILLING CODE 3510–DS–P**

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## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–475–818]**

### Notice of Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review: Certain Pasta From Italy

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

**SUMMARY:** The Department of Commerce is conducting an administrative review of the antidumping order on certain pasta from Italy. This review covers eight producers and/or exporters of the subject merchandise. The period of review (''POR'') is January 19, 1996, through June 30, 1997.

We have preliminarily found that, for certain producers and/or exporters, sales of the subject merchandise have been made below normal value. If these preliminary results are adopted in our final results of this review, we will instruct the Customs Service to assess antidumping duties equal to the difference between the export price or constructed export price and the normal value.

**EFFECTIVE DATE:** August 7, 1998.

**FOR FURTHER INFORMATION CONTACT:** Edward Easton or John Brinkmann, Office 2 AD/CVD Enforcement, Group I, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue N.W., Washington, D.C. 20230; telephone: (202) 482–1777 or (202) 482–5288, respectively.

**SUPPLEMENTARY INFORMATION:**

#### Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (''the Act'') by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce's (''the Department's'') regulations are to the regulations codified at 19 CFR Part 351, as published in the **Federal Register** on May 19, 1997 (62 FR 27296).

#### Case History

On July 24, 1996, the Department published in the **Federal Register** the antidumping duty order on certain pasta (''pasta'') from Italy (61 FR 38547). On July 21, 1997, we published in the **Federal Register** the notice of ''Opportunity to Request an Administrative Review'' of this order, for the POR (62 FR 38973).

The following producers and/or exporters of pasta from Italy requested a review in accordance with 19 CFR 351.213(b)(2): (1) Rummo S.p.A. Molino e Pastificio (''Rummo''); (2) F. lli De Cecco di Filippo Fara S. Martino S.p.A. (''De Cecco''); (3) La Molisana Industrie Alimentari S.p.A. (''La Molisana''); (4) Delverde Srl (''Delverde''); (5) Tamma Industrie Alimentari di Capitanata, SrL (''Tamma'');[1] (6) Industria Alimentari Colavita S.p.A. (''Indalco''); and (7) Petrini, S.p.A. (''Petrini''). Three of these seven companies, Petrini, Delverde, and Tamma, later withdrew their requests. *See* Partial Rescission of Antidumping Duty Administrative Review section, below.

On July 31, 1997, the petitioners requested a review of ten producers and/or exporters of pasta from Italy; however, on September 2, 1997, they withdrew their request for review of all of these companies except: (1) Arrighi S.p.A. Industrie Alimentari (''Arrighi''); (2) Barilla Alimentari S.R.L.. (''Barilla''); (3) N. Puglisi & F. Industria Paste Alimentari S.p.A. (''Puglisi''); (4) La Molisana; (5) Pastificio Fratelli Pagani S.p.A. (''Pagani''); and (6) Rummo. See Partial Recision of Antidumping Duty Administrative Review section, below.

On August 28, 1997, we published the notice of initiation of this antidumping duty administrative review (62 FR 45621) and on September 4, 1997, the Department issued the antidumping questionnaire[2] to counsel for the companies subject to review. After several extensions, the respondents submitted responses to sections A through C of the antidumping questionnaire on November 3 and 10, 1997. The Department issued its supplemental questionnaires in January, 1998. Responses to the supplemental questionnaires were received in March, 1998.

On October 20, 1997, World Finer Foods, Inc. (''World Finer Foods''), an importer of pasta produced by Arrighi, wrote to the Department to indicate that Arrighi had ceased exporting pasta to the United States and would not participate in the review. World Finer Foods indicated that it did not seek the return of the antidumping duty deposits it had already made on imports of Arrighi pasta, but that it could not afford additional antidumping duties. An officer of World Finer Foods met with Department officials on January 8, 1998, and offered to submit information concerning its purchases from Arrighi for the Department's examination. This information was submitted on March 10, 1998. On April 9, 1998, petitioners submitted a response indicating, among other things, that they believed the information submitted by World Finer Foods was inadequate for calculating an antidumping duty margin for Arrighi.

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[1] During the antidumping investigation, the Department determined that Delverde and Tamma were affiliated parties within the meaning of section 771(33) of the Act and, moreover, that it was appropriate to ''collapse'' both companies into a single entity for the purpose of calculating an antidumping duty margin.

[2] Section A of the questionnaire requests general information concerning a company's corporate structure and business practices, the merchandise under investigation that it sells, and the sales of the merchandise in all of its markets. Sections B and C request home market sales listings and U.S. sales listings, respectively. Section D requests information on the cost of production of the foreign like product and constructed value of the merchandise under investigation.

The Department has examined World Finer Foods' documentation and determined that it is not possible, pursuant to the statute, to calculate a margin from the information in the submission. Moreover, inasmuch as Arrighi refused to participate in the review, the Department has assigned an adverse margin to Arrighi. See Use of Facts Available section, below.

On November 21 and 24, 1997, the petitioners alleged that Indalco, Rummo, and Puglisi had sold the foreign like product below the cost of production (''COP''). On December 24, 1997, we initiated a cost-of-production investigation with respect to these companies. The three companies submitted their responses to section D of the antidumping questionnaire in January, 1998.[3]

On January 28, 1998, the Department published a notice postponing the preliminary results of this review until July 1, 1998 (63 FR 4218). On June 10, 1998, the Department published a notice further postponing the preliminary results of this review until no later than July 31, 1998 (63 FR 31735).

**Partial Rescission of Antidumping Duty Administrative Review**

On September 2, 1997, the petitioners withdrew their request for reviews of Castelletti S.p.A., Societa Transporti Castelletti, General Noli S.p.A., and R. Queirolo & Co., S.p.A. There were no other requests for reviews of these companies and, accordingly, we are rescinding the review with respect to these companies.

On October 24, 1997, Petrini withdrew its request for a review. Delverde and Tamma withdrew their requests for a review on November 10, 1997. Because there were no other requests for reviews of Petrini, Delverde, and Tamma, and because the companies' letters withdrawing their requests for reviews were timely filed, we are rescinding the review with respect to these companies in accordance with 19 CFR 351.213(d)(1).

**Scope of the Review**

Imports covered by this review are shipments of certain non-egg dry pasta in packages of five pounds (or 2.27 kilograms) or less, whether or not enriched or fortified or containing milk or other optional ingredients such as chopped vegetables, vegetable purees, milk, gluten, diastases, vitamins, coloring and flavorings, and up to two percent egg white. The pasta covered by this scope is typically sold in the retail market, in fiberboard or cardboard cartons or polyethylene or polypropylene bags, of varying dimensions.

Excluded from the scope of this review are refrigerated, frozen, or canned pastas, as well as all forms of egg pasta, with the exception of non-egg dry pasta containing up to two percent egg white. Also excluded are imports of organic pasta from Italy that are accompanied by the appropriate certificate issued by the Instituto Mediterraneo Di Certificazione, by Bioagricoop Scrl, or by QC&I International Services.

Furthermore, on August 25, 1997, the Department issued a scope ruling that multicolored pasta, imported in kitchen display bottles of decorative glass, which are sealed with cork or paraffin and bound with raffia, is excluded from the scope of this proceeding.

The merchandise subject to review is currently classifiable under item 1902.19.20 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and for customs purposes, our written description of the scope is dispositive.

**Verification**

As provided in section 782(i) of the Act, we verified sales information provided by De Cecco. We used standard verification procedures, including on-site inspection of the manufacturer's facilities and examination of relevant sales and financial records. Our verification results are outlined in the verification report placed in the case file.

**Use of Facts Available**

Section 776(a) of the Act requires the Department to resort to facts otherwise available (''facts available'') if necessary information is not available on the record or when an interested party or any other person ''fails to provide [requested] information by the deadlines for submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782.'' As provided in section 782(c)(1) of the Act, if an interested party ''promptly after receiving a request from [the Department] for information, notifies [the Department] that such party is unable to submit the information requested in the requested form and manner,'' the Department may modify the requirements to avoid imposing an unreasonable burden on that party. Since Arrighi, Barilla, and Pagani did not provide any such notification to the Department, subsections (c)(1) and (e) do not apply to this situation. Accordingly, we preliminarily find, in accordance with section 776(a) of the Act, that the use of facts available is appropriate for Arrighi, Barilla, and Pagani.

Where the Department must resort to facts available because a respondent failed to cooperate to the best of its ability, section 776(b) of the Act authorizes the use of an inference adverse to the interests of that respondent in selecting from among the facts available. Because Arrighi, Barilla, and Pagani failed to cooperate by not responding to our antidumping questionnaire and, thus, have not acted to the best of their abilities to comply with requests for information, we have determined that an adverse inference with respect to these companies is warranted.

Section 776(b) of the Act also authorizes the Department to use as adverse facts available information derived from the petition, the final determination in the antidumping investigation, a previous administrative review, or any other information placed on the record. Section 776(c) of the Act provides that the Department shall, to the extent practicable, corroborate that secondary information from independent sources reasonably at its disposal. The Statement of Administrative Action (''SAA'') provides that ''corroborate'' means simply that the Department will satisfy itself that the secondary information has probative value. (See H.R. Doc. 316, Vol. 1, 103d Cong., 2d sess. 870 (1994).)

To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information used. However, in an administrative review, the Department will not engage in updating the petition to reflect the prices and costs that are found during the current review. Rather, the process of corroboration is to determine that the significant elements used to derive a margin in a petition are reliable and relevant to the conditions upon which the petition is based.

With respect to the relevance aspect of corroboration, the Department will consider information reasonably at its disposal as to whether there are circumstances that would render a margin not relevant. Where

[3] Because the Department had disregarded sales below the cost of production during the antidumping investigation of La Molisana and had initiated a cost investigation of De Cecco prior to assigning the company a margin based on adverse facts available, we had reasonable grounds to believe or suspect that sales by these companies of the foreign like product under consideration for the determination of normal value in this review may have been made at prices below the cost of production. Therefore, we initiated cost investigations of De Cecco and La Molisana at the time we initiated the antidumping review.

circumstances indicate that the selected margin is not appropriate as adverse facts available, the Department will disregard the margin and determine an appropriate margin. See, *e.g., Fresh Cut Flowers from Mexico: Final Results of Antidumping Duty Administrative Review*, 61 FR 6812 (February 22, 1996). In this instance, we have no reason to believe that the application of the highest petition margin, calculated based on our revisions to the estimated margins in the petition concerning Italian pasta, is inappropriate.[4] We note that the SAA, at 870, states that ''the fact that corroboration may not be practicable in a given circumstance will not prevent the agencies from applying an adverse inference * * *.'' In addition, the SAA, at 869, emphasizes that the Department need not prove that the facts available are the best alternative information. We therefore have assigned Arrighi, Barilla, and Pagani the highest margin from the petition, i.e., 71.49 percent, for purposes of these preliminary results. See, *Notice of Initiation of Antidumping Duty Investigations: Certain Pasta from Italy and Turkey*, 60 FR 30268, 30269 (June 8, 1995).

**Comparisons to Normal Value**

To determine whether sales of certain pasta from Italy were made in the United States at less than normal value (''NV''), we compared the export price (''EP'') or constructed export price (''CEP'') to the NV. We first attempted to compare contemporaneous sales of products sold in the United States and home markets that were identical with respect to the following characteristics: shape; wheat type; additives; and enrichment. However, we did not find any appropriate home market sales of merchandise that were identical in these respects to the merchandise sold in the United States. Accordingly, we compared products sold to the United States with the most similar merchandise sold in the home market based on the characteristics listed above, in that order of priority.

**Export Price and Constructed Export Price**

For the price to the United States, we used, as appropriate, EP or CEP, in accordance with sections 772(a) and (b) of the Act. We calculated EP where the merchandise was sold directly to the first unaffiliated purchaser in the United States prior to importation and CEP was not otherwise warranted based on the facts on our record. We calculated CEP where sales to the first unaffiliated purchaser took place after importation.

For all respondents, we calculated EP and CEP based on the packed FOB, CIF, or delivered price to the first unaffiliated customer in, or for exportation to, the United States. We reduced these prices to reflect discounts and rebates. In accordance with section 772(c)(2) of the Act, we made deductions, where appropriate, for foreign brokerage and handling, freight expenses between the factory and the U.S. distributor's warehouse, freight insurance, export fees, brokerage and handling, U.S. inspection fees, U.S. duties, and U.S. freight.

In accordance with section 772(d)(1) of the Act, we made deductions from CEP, where appropriate, for direct selling expenses (including advertising), credit, warranties, and commissions paid to unaffiliated distributors. In addition, we deducted those indirect selling expenses that related to economic activity in the United States. These included inventory carrying costs, certain indirect selling expenses incurred in the home market, and the indirect selling expenses of affiliated U.S. distributors. Finally, we made adjustments for CEP profit in accordance with section 772 (d)(3) and (f) of the Act.

Where payment dates were not reported, we used average credit days—by customer—as a proxy to calculate credit expenses. Where we could not establish the average credit days on a per customer basis, we used the date of these preliminary results.

Certain respondents reported the resale of subject merchandise purchased in Italy from unaffiliated producers. Where the unaffiliated producers of the subject pasta knew at the time of the sale that the merchandise was destined for the United States, the relevant basis for the export price would be the price between the producer and the respondents. In this review, the unaffiliated producers knew or had reason to know at the time of sale that the ultimate destination of the merchandise was the United States because virtually all enriched pasta is sold to the United States. For such transactions, therefore, the price between the respondents and their U.S. customers was not used as the basis for the export price.

When respondents purchased pasta from other producers and we were able to identify resales of this merchandise to the United States, we excluded sales of the purchased pasta from the margin calculation. Where the purchased pasta was commingled with the company's production and we could not identify the resales, we examined both sales of produced pasta and resales of purchased pasta. Inasmuch as the percentage of pasta purchased by any single respondent was an insignificant part of its U.S. sales data base, we included the sales of commingled purchased pasta in our margin calculations. See Proprietary Memorandum to the File, dated July 31, 1998.

**Company-Specific Issues**

*La Molisana*

During the POR, La Molisana made EP sales. La Molisana based its date of sale on the date of shipment, whether identified by the invoice or the bill of lading. Petitioners have alleged that the distribution contract between La Molisana and La Pace is a long-term contract. For the reasons specified in the Proprietary Memorandum to the File, dated July 31, 1998, we have preliminarily determined that the date of sale, as reported, is appropriate. (Memoranda prepared for the record in this review and cited in this notice are on file in Import Administration's Central Records Unit (Room B–099 of the main Commerce building).)

**Normal Value**

In order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared each respondent's volume of home market sales of the foreign like product to the volume of its U.S. sales of the subject merchandise. Pursuant to sections 773(a)(1)(B) and (C) of the Act, because each respondent's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales of the subject merchandise, we determined that the home market was viable.

We calculated NV based on FOB, CIF or delivered prices to home market customers. We made deductions from the starting price for inland freight and inland insurance expenses, discounts, and rebates. In accordance with section 773(a)(6) of the Act, we deducted home market packing costs and added U.S. packing costs. In addition, we made circumstance of sale adjustments for direct expenses, including imputed credit expenses, advertising expenses, and warranty expenses, in accordance with section 773(a)(6)(C)(iii) of the Act.

We also made adjustments, when comparing U.S. sales with home market

[4] During the antidumping investigation, we assigned an adverse facts available margin of 46.67 percent to De Cecco. As we explained in our final determination in the investigation, ''[b]ecause De Cecco made some effort to cooperate, even though it did not cooperate to the best of its ability, we did not choose the most adverse rate based on the petition.'' Final investigation determination, 61 FR 30326, 30329.

sales of similar, but not identical, merchandise, for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act. We based this adjustment on the difference in the variable costs of manufacturing the foreign like product and subject merchandise.

We also made adjustments where commissions were granted on sales in the U.S. market but not in the home market. We made a downward adjustment to normal value for the lesser of (1) the amount of the commission paid in the U.S. market, or (2) the amount of indirect selling expenses incurred in the comparison market.

**Cost of Production Analysis**

Based on the results of the antidumping investigation and on the timely allegations filed by the petitioners during this review, we initiated COP investigations for each of the five respondents participating in the review to determine whether sales were made at prices below the COP. See Footnote 3, above, and Memoranda from Case Analysts to Richard W. Moreland, dated January 12, 1998.

We conducted the COP analysis as described below.

*Calculation of COP*

In accordance with section 773(b)(3) of the Act, we calculated the weighted-average COP on a product-specific basis for each respondent, based on the sum of the costs of materials and fabrication of the foreign like product, plus amounts for home market selling, general, and administrative expenses (''SG&A''), and packing costs. As facts available, where a respondent sold both pasta it produced and pasta it purchased and these were commingled, we calculated a weight-average COP based on the costs of production and the acquisition price of the commingled pasta. We relied on each respondent's submitted COP data, except in the following instances:

*De Cecco*

We valued semolina De Cecco purchased from its affiliated producer, Molino, by applying the higher of transfer price, market price, or the cost to the affiliated entity to produce the input. We invite interested parties to comment on whether the Department should apply the major input rule (see 19 CFR 351.407(b)) for the valuation of these purchases of semolina in the final results of this review.

*Indalco*

We revised the G&A expense applied to handmade pasta produced by Indalco's affiliated supplier. The revision results from a correction to the affiliated company's cost of sales. See, Memorandum to the File, dated July 31, 1998.

*La Molisana*

We revised the company's reported interest expense rate to include foreign exchange losses in the calculation of the rate. We also revised the company's reported cost of manufacture, G&A and interest expenses to reflect a single weighted average cost for each product produced. See Memorandum to Christian Marsh from Taija Slaughter, dated July 31, 1998. For the pasta types that La Molisana both purchased and produced, we calculated a weighted-average cost.

*Puglisi*

We revised Puglisi's reported G&A expense rate based on our exclusion of certain non-production related offsets. See Memorandum to Christian Marsh from Stan T. Bowen, dated July 15, 1998.

*Rummo*

For the pasta types that the respondent both purchased and produced, we calculated a weighted-average cost.

*Test of Home Market Sales Prices*

As required under section 773(b) of the Act, we compared the weighted-average COP for each respondent to the comparison market sales of the foreign like product, to determine whether these sales had been made at prices below the COP within an extended period of time and in substantial quantities, and whether such prices were sufficient to permit the recovery of all costs within a reasonable period of time. On a product-specific basis, we compared the COP (less selling expenses) to the home market prices, less any applicable movement charges, taxes, rebates, commissions and other direct and indirect selling expenses.

*Results of the COP Test*

Pursuant to 773(b)(2)(C) of the Act, where less than 20 percent of a respondent's sales of a given product were made at prices less than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in ''substantial quantities.'' Where 20 percent or more of a respondent's sales of a given product were at prices less than the COP, we determined such sales to have been made in ''substantial quantities'' within an extended period of time, in accordance with section 773(b)(2)(B) and (C) of the Act, and disregarded the below-cost sales from our analysis. We used the remaining sales in our margin analysis, in accordance with section 773(b)(1).

**General Price-to-Price Comparison Issues**

We excluded sales of pasta from the respondents to their employees from the home market sales because the volumes of these sales were small and the companies' records of these sales were difficult to access for the detailed information we requested. Where possible, we also excluded pasta purchased by the respondents from unaffiliated producers and resold in the home market. However, where the purchased pasta was commingled with the respondent's production and we could not identify the resales, we examined both sales of the produced pasta and resales of the purchased pasta in the home market. Inasmuch as the percentage of pasta purchased by any single respondent was an insignificant part of its home market data base, we included the sales of the commingled pasta in our calculation of NV.

**Company-Specific Issues**

*De Cecco*

At verification, De Cecco disclosed that it had mistakenly included sales made to a third country in its home market data base. We corrected the data base by removing these sales.

*Indalco*

We disallowed the flat-fee commission expense claimed for one sales agent because the expense was based on a flat fee that was not directly linked to reported sales of pasta. We removed the reported amount from commission expenses and added it to the company's indirect expenses.

*La Molisana*

We treated reported warranty expenses as indirect selling expenses rather than as direct selling expenses.

**Level of Trade**

In accordance with section 773(a)(1)(B) of the Act, we determined NV at the same level of trade as the U.S. sales (either EP or CEP). To the extent practicable, when there were no sales at the same level of trade, we compared U.S. sales to home market sales at a different level of trade.

To determine whether home market and U.S. sales were at different levels of

trade, we examined stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customers. If the home market sales were at a different level of trade and the differences affected price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and sales at the level of trade of the export transaction, we made a level-of-trade adjustment under section 773(a)(7)(A) of the Act.

Finally, for CEP sales, if the NV level was more remote from the factory than the CEP level and there was no basis for determining whether the difference in levels between NV and CEP affected price comparability, we granted a CEP offset, as provided in section 773(a)(7)(B) of the Act. See *Notice of Final Determination Of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa,* 62 FR 61731 (November 19, 1997). For a company-specific description of our level-of-trade analysis for these preliminary results, See Level-of-Trade Memorandum to Susan H. Kuhbach, July 31, 1998.

**Company-Specific Product Comparison Issues**

*De Cecco*

During our verification of De Cecco's sales response, we found sales of vitamin-enriched pasta in the home market for three different pasta types sold in the United States. Vitamin enrichment is very rare and an unusual characteristic for pasta produced for consumption in Italy. Home market sales of such pasta were so small as to be insignificant. On this basis, we have determined that these sales of vitamin-enriched pasta are outside the ''ordinary course of trade'' as that term is used in 19 CFR 351.102. Therefore, we deleted these sales from the sales data base. In each case, we matched U.S. sales to similar, but not identical, home market sales of those same pasta types (*i.e.*, those without vitamin enrichment).

De Cecco reported combination sales of different pasta shapes and of pasta with bottled olive oil in the home market. Inasmuch as these combinations were not sold to the United States and were not similar to U.S. sales, we excluded these sales from the sales data base.

*Indalco*

Indalco argued that its handmade pasta and its machine-produced pasta should be treated as different products for product-matching purposes. Indalco reported that the two have different shapes and are produced at significantly different speeds. During the course of the antidumping investigation, we classified pasta on the basis of whether it was a long, short, or specialty cut, and found that line speeds were a useful way of distinguishing specialty cuts from the standard long and short cuts. We agree with Indalco that the significantly different output rates for the production of handmade pasta and machine-made shapes constitute a legitimate basis for classifying them as different products. Therefore, we have assigned sales of handmade pasta separate shape codes to distinguish them from regular and specialty cuts and compared sales of handmade pasta in the United States with sales of handmade pasta in the home market. See, Memorandum to Richard W. Moreland, dated July 31, 1998.

*La Molisana*

La Molisana claimed a level of trade adjustment on the basis of different selling activities associated with their La Molisana (''LM'') brand and private label (''PL'') products sold in both the home market and the United States. For the reasons we stated in the Proprietary Memorandum to the File (from page 19), dated July 31, 1998, we found that different brands are not an appropriate basis for establishing different levels of trade. With respect to La Molisana's statements concerning the different product characteristics of the LM brand and the PL products, the information on the record is not adequate to establish that the reported differences in product characteristics are measurable or that they would result in more appropriate product matches contemplated in section 771(16) of the Act. See, Proprietary Memorandum to the File, dated July 31, 1998.

*Rummo*

Rummo reported sales of both insect-infested and defective quality pasta to food banks. The company argues that these sales are not representative of its commercial sales in the United States and that their unusually low prices exaggerate dumping margins when these sales are compared to commercial sales in the home market. On March 17, 1998, Rummo requested that the Department issue a scope ruling to the effect that its transactions with food banks were outside the scope of the antidumping duty order. On May 1, 1998, the Department responded to the request, stating that the transactions are covered by the scope of the order because the antidumping order covers all entries of pasta in packages of five pounds or less.

On May 15, 1998, counsel for Rummo again raised the issue with the Department. We recommended that the company provide the Department with enough information to enable us to distinguish among the different transactions. See Memorandum to the File, dated July 31, 1998. On May 21, 1998, Rummo submitted additional information on the issue with the request that the Department develop a methodology to remove these sales from our antidumping margin calculations. On June 24, 1998, petitioners objected to the request to remove these transactions from margin calculations. Finally, on June 30, 1998, Rummo recapitulated its position on its transactions with food banks, citing to the documents that it had submitted for the record on the subject.

Although it is possible that some of the transactions involving the insect-infested and defective quality pasta may not have constituted commercial sales, from the information Rummo submitted for the record, we are unable to distinguish between sales transactions and transactions that were not commercial sales. Accordingly, in conformance with our practice to include all U.S. sales of subject merchandise in our comparisons, we have preliminarily determined to include all transactions with U.S. food banks in our margin calculations.

**Currency Conversion**

For purposes of these preliminary results, we made currency conversions in accordance with section 773A(a) of the Act, based on the official exchange rates published by the Federal Reserve. Section 773A(a) of the Act directs the Department to use a daily exchange rate in order to convert foreign currencies into U.S. dollars, unless the daily rate involves a ''fluctuation.'' In accordance with the Department's practice, we have determined as a general matter that a fluctuation exists when the daily exchange rate differs from a benchmark by 2.25 percent. The benchmark is defined as the rolling average of rates for the past 40 business days. When we determine that a fluctuation exists, we substitute the benchmark for the daily rate.

**Preliminary Results of Review**

As a result of this review, we preliminarily determine that the following percentage weighted-average margins exists for the POR:

| Producer and/or exporter | Margin (percent) |
|---|---|
| Arrighi | 71.49 |

| Producer and/or exporter | Margin (percent) |
|---|---|
| Barilla | 71.49 |
| De Cecco | 0.36 |
| Indalco | 1.62 |
| La Molisana | 14.33 |
| Pagani | 71.49 |
| Puglisi | 2.03 |
| Rummo | 7.04 |

We will disclose the calculations used in our analysis to parties to this proceeding within five days of the publication date of this notice. See 19 CFR 351.224(b). Any interested party may request a hearing within thirty days of publication. See 19 CFR 351.310(c). Any hearing, if requested, will be held 44 days after the publication of this notice, or the first workday thereafter. Interested parties are invited to comment on these preliminary results. Interested parties may submit case briefs within 30 days of the date of publication of this notice. Parties who submit case briefs in this proceeding should provide a summary of the arguments, not to exceed five pages and a table of statutes, regulations, and cases cited. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than 37 days after the date of publication. The Department will publish a notice of the final results of this administrative review, which will include the results of its analysis of issues raised in any such written comments or at the hearing, within 120 days from the publication of these preliminary results.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Upon completion of this review, the Department will issue appraisement instructions directly to the Customs Service.

For EP sales which were not imported by an affiliated party, we divided the total dumping margins (calculated as the difference between normal value and EP) for each importer/customer by the total value of the sales to that importer/customer. We will direct the Customs Service to assess the resulting *ad valorem* dollar amount against each importer's/customer's entries under the order during the review period.

For CEP sales, we divided the total dumping margins for the reviewed sales by the total entered value of the reviewed sales for each importer. Where an affiliated party acts as an importer for EP sales, we included the applicable EP sales in this assessment-rate calculation. We will direct the Customs Service to assess the resulting percentage margin against the entered customs values for the subject merchandise on each of that importer's entries under the order during the period of review.

To calculate the cash-deposit rate for each producer and/or exporter included in these administrative reviews, we divided the total dumping margins for each company by the total net value for that company's sales during the review period. To derive a single deposit rate for each producer and/or exporter, we weight-averaged the EP and CEP deposit rates (using the EP and the CEP as the weighing factors). We will direct the Customs Service to collect the resulting percentage deposit rate against the entered value of each producer's and/or exporter's entries of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the notice of the final results of this review. Accordingly, as provided in section 751(a)(2)(C) of the Act, the following deposit rates will be effective upon publication of the final results of this for all shipments of certain pasta from Italy entered, or withdrawn from warehouse, for consumption on or after that publication date: (1) The cash deposit rate for companies listed above will be the rate established in the final results of this review, except if the rate is less than 0.5 percent, in which case it is *de minimis* and the cash deposit will be zero; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the antidumping investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review conducted by the Department, the cash deposit rate will be 11.26 percent, the ''All Others'' rate established in the antidumping investigation. See, final investigation determination.

These cash deposit rates, when imposed, shall remain in effect until the publication of the final results of the next administrative review.

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties. This determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: July 31, 1998.

**Joseph A. Spetrini,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 98–21230 Filed 8–6–98; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–489–805]**

### Notice of Preliminary Results and Partial Recission of Antidumping Duty Administrative Review: Certain Pasta From Turkey

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

**SUMMARY:** The Department of Commerce is conducting an administrative review of the antidumping duty order on certain pasta from Turkey. This review covers three exporters of the subject merchandise. The period of review is January 19, 1996, through June 30, 1997.

We have preliminarily found that, for certain exporters, sales of the subject merchandise have been made below normal value. If these preliminary results are adopted in our final results, we will instruct the Customs Service to assess antidumping duties equal to the difference between the export price or constructed export price and the normal value.

We preliminarily find that, for the one company that had shipments during the review period and participated in the review, sales have not been made below normal value. If these preliminary results are adopted in the final results, we will instruct the Customs Service not to assess antidumping duties on the subject merchandise exported by this company.

**EFFECTIVE DATE:** August 7, 1998.

**FOR FURTHER INFORMATION CONTACT:** Judith Wey Rudman or John Brinkmann, Office of AD/CVD Enforcement, Group I, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–0192 or (202) 482–5288, respectively.

**SUPPLEMENTARY INFORMATION:**

#### Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to

the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations refer to the regulations codified at 19 CFR Part 351, as published in the **Federal Register** on May 19, 1997 (62 FR 27296).

**Case History**

On July 24, 1996, the Department published in the **Federal Register** the antidumping duty order on certain pasta from Turkey (61 FR 38545). On July 21, 1997, we published in the **Federal Register** the notice of ''Opportunity to Request an Administrative Review'' of this order for the period January 19, 1996 through June 30, 1997 (62 FR 38973). In accordance with 19 CFR 351.213(b), on July 31, 1997, the petitioners requested a review of the following producers and exporters of certain pasta: Filiz Gida Sanayi ve Ticaret (Filiz); and Nuh Ticaret ve Sanayi A.S. (Nuh Ticaret). Also on July 31, 1997, Pastavilla Kartal Makarnacilik Sanayi ve Ticaret A.S. (Pastavilla), requested an administrative review, in accordance with 19 CFR 351.213(b)(2). On August 28, 1997, we published the notice of initiation of this antidumping duty administrative review covering the period of January 19, 1996 through June 30, 1997 (*Notice of Initiation*, 62 FR 45621).

On September 4, 1997, we issued an antidumping questionnaire to Filiz, Nuh Ticaret, and Pastavilla.[1] In its request for an administrative review, Pastavilla requested that its period of review (POR) be truncated on the basis that it had no U.S. entries, exports, or sales during the POR prior to May 1997. Accordingly, on September 11, 1997, we informed Pastavilla that it could limit its reporting of data to the period January 1 through June 30, 1997. In that letter we advised Pastavilla that if it elected to limit its reporting of data to the six-month period, and the Department subsequently initiated a sales-below-cost investigation, it would forego the application of the ''recovery of cost'' test pursuant to section 773(b)(2)(D) of the Act. Pastavilla submitted its questionnaire response on October 20, 1997.

On November 21, 1997, petitioners alleged that Pastavilla had sold the foreign like product at prices below the cost of production (COP). On December 24, 1997, we initiated a sales-below-cost investigation with respect to Pastavilla. Pastavilla submitted its section D COP response on January 23, 1998.

The Department issued a supplemental questionnaire for sections A, B, and C to Pastavilla on February 27, 1998. On March 11, 1998, the Department issued a supplemental section D questionnaire to Pastavilla. Pastavilla's responses to the section A–C and section D supplemental questionnaires were received on March 16 and 27, 1998, respectively. The Department issued a second supplemental section D questionnaire on May 7, 1998, and Pastavilla filed its response May 21, 1998.

On January 28 1998, the Department published a notice postponing the preliminary results of this review until July 1, 1998 (63 FR 4218). On June 10, 1998, the Department published a notice further extending the deadline for the preliminary results of this review until no later than July 31, 1998 (63 FR 31735).

**Partial Rescission**

In the *Notice of Initiation*, we initiated a review of Filiz, Nuh Ticaret, and Pastavilla. However, on October 6, 1997, Nuh Ticaret informed the Department that it had no shipments of the subject merchandise to the United States during the POR. We have preliminarily confirmed this with information from the United States Customs Service. Therefore, in accordance with section 351.213(d)(3) of the Department's regulations and consistent with Department practice, we are preliminarily rescinding our review of Nuh Ticaret (*see, e.g., Certain Welded Carbon Steel Pipe and Tube from Turkey: Final Results and Partial Rescission of Antidumping Administrative Review*, 63 FR 35191 (June 29, 1998) (*Turkish Pipe and Tube*) and *Certain Fresh Cut Flowers From Colombia; Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 62 FR 53287, 53288 (October 14, 1997).

**Scope of the Review**

Imports covered by this review are shipments of certain non-egg dry pasta in packages of five pounds (or 2.27 kilograms) or less, whether or not enriched or fortified or containing milk or other optional ingredients such as chopped vegetables, vegetable purees, milk, gluten, diastases, vitamins, coloring and flavorings, and up to two percent egg white. The pasta covered by this scope is typically sold in the retail market, in fiberboard or cardboard cartons or polyethylene or polypropylene bags, of varying dimensions.

Excluded from the scope of this review are refrigerated, frozen, or canned pastas, as well as all forms of egg pasta, with the exception of non-egg dry pasta containing up to two percent egg white.

Imports of subject merchandise are currently classifiable under items 1902.19.20 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

**Use of Facts Available**

Filiz did not respond to the Department's antidumping questionnaire. We have confirmed that the questionnaire was received by Filiz (*see* Memorandum to the File dated March 4, 1998) and, accordingly, for the reasons described below, we are assigning to Filiz a margin based on adverse facts available.

Section 776(a) of the Act requires the Department to resort to facts otherwise available (facts available) if necessary information is not available on the record or when an interested party or any other person ''fails to provide [requested] information by the deadlines for submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782.'' As provided in section 782(c)(1) of the Act, if an interested party ''promptly after receiving a request from [the Department] for information, notifies [the Department] that such party is unable to submit the information requested in the requested form and manner,'' the Department may modify the requirements to avoid imposing an unreasonable burden on that party. Since Filiz did not provide any such notification to the Department, subsections (c)(1) and (e) do not apply to this situation. Accordingly, we preliminarily find, in accordance with section 776(a) of the Act, that the use of facts available is appropriate for Filiz.

Where the Department must resort to facts available because a respondent failed to cooperate to the best of its ability, section 776(b) of the Act authorizes the use of an inference adverse to the interests of that respondent in selecting from among the facts available. Because Filiz failed to cooperate by not responding to our

[1] Section A of the questionnaire requests general information concerning a company's corporate structure and business practices, the merchandise under review that it sells, and the sales of the merchandise in all of its markets. Sections B and C of the questionnaire request home market sales listings and U.S. sales listings, respectively. Section D requests additional information about the cost of production of the foreign like product and constructed value of the merchandise under review.

antidumping questionnaire and, thus, having not acted to the best of its ability to comply with requests for information, we have determined that an adverse inference with respect to Filiz is warranted.

Section 776(b) of the Act also authorizes the Department to use as adverse facts available information derived from the petition, the final determination in the antidumping investigation, a previous administrative review, or any other information placed on the record. Section 776(c) of the Act provides that the Department shall, to the extent practicable, corroborate that secondary information from independent sources reasonably at its disposal. The Statement of Administrative Action (SAA) provides that ''corroborate'' means simply that the Department will satisfy itself that the secondary information has probative value. (*See* H.R. Doc. 316, Vol. 1, 103d Cong., 2d sess. 870 (1994).)

To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used. However, in an annual review, the Department will not engage in updating the petition to reflect the prices and costs that are found during the current review. Rather, the process of corroboration is to determine that the significant elements used to derive a margin in a petition are reliable and relevant to the conditions upon which the petition is based.

With respect to the relevance aspect of corroboration, the Department will consider information reasonably at its disposal as to whether there are circumstances that would render a margin not relevant. Where circumstances indicate that the selected margin is not appropriate as adverse facts available, the Department will disregard the margin and determine an appropriate margin. (*See, e.g., Fresh Cut Flowers from Mexico: Final Results of Antidumping Duty Administrative Review,* 61 FR 6812 (February 22, 1996)).

In this instance, we have no reason to believe that the application of the highest petition margin, calculated based on our revisions to the estimated margins in the petition concerning Turkish pasta, is inappropriate. We have assigned Feliz the rate of 63.29 percent as adverse facts available, for purposes of these preliminary results. This margin is the same margin derived from the petition that was corroborated and assigned to Feliz during the investigation. (See, *Notice of Final Determination of Sales at Less Than Fair Value: Certain Pasta from Turkey,* 61 FR 30309 (June 14, 1996).) For purposes of this preliminary determination, we find that this margin continues to be of probative value. We note that the SAA, at 870, states that ''the fact that corroboration may not be practicable in a given circumstance will not prevent the agencies from applying an adverse inference. * * *'' In addition, the SAA at 869, emphasizes that the Department need not prove that the facts available are the best alternative information.

**Comparisons to Normal Value**

To determine whether sales of certain pasta from Turkey were made in the United States at less than fair value, we compared the constructed export price (CEP) to the normal value (NV). Because Turkey's economy experienced high inflation during the POR (over 70 percent), as is Department practice, we limited our comparisons to home market sales made during the same month in which the U.S. sale occurred and did not apply our ''90/60 contemporaneity rule (*see, e.g., Turkish Pipe and Tube* and *Certain Porcelain on Steel Cookware from Mexico: Final Results of Antidumping Duty Administrative Review,* 62 FR 42496, 42503 (August 7, 1997)). This methodology minimizes the extent to which calculated dumping margins are overstated or understated due solely to price inflation that occurred in the intervening time period between the U.S. and home market sales.

We first attempted to compare products sold in the U.S. and home markets that were identical with respect to the following characteristics: pasta shape; type of wheat; additives; and enrichment. However, we did not find any home market sales of merchandise that were identical in these respects to the merchandise sold in the United States. Accordingly, we compared U.S. products with the most similar merchandise sold in the home market based on the characteristics listed above, in that order of priority.

**Constructed Export Price**

We calculated CEP for Pastavilla, in accordance with subsections 772(b), (c) and (d) of the Act, because sales to the first unaffiliated purchaser took place after importation into the United States. We based CEP on packed delivered prices to the first unaffiliated customer in the United States.

In accordance with section 772(c)(2)(A) of the Act, we made deductions for movement expenses including inland freight from plant or warehouse to port of exportation, foreign brokerage and handling, international freight, marine insurance, U.S. duties, and U.S. inland freight expenses (freight from port to the customer). We revised the reported U.S. inland freight expenses to include the amount of the taxes shown on the freight invoice. In addition, we increased the CEP by the amount of the countervailing duties paid that were attributable to an export subsidy, in accordance with section 772(c)(1)(c).

In accordance with section 772(d)(1), we deducted from the starting price those selling expenses that were incurred in selling the subject merchandise, including direct selling expenses (credit costs and bank charges) and indirect selling expenses, that related to economic activity in the United States. We also deducted from CEP an amount for profit in accordance with section 772(d)(3) of the Act.

**Normal Value**

In order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared Pastavilla's volume of home market sales of the foreign like product to the volume of its U.S. sales of the subject merchandise. Pursuant to sections 773(a)(1)(B) and (C) of the Act, because Pastavilla's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales of the subject merchandise, we determined that the home market was viable.

**Sales to Affiliated Parties**

Pastavilla and its affiliated home market distributor made home-market sales to an affiliated supermarket chain during the POR. Because Pastavilla could not report the price to the unaffiliated customers of the supermarket chain, in accordance with section 351.403(c) of the Department's regulations, we performed an analysis to determine whether the prices to the affiliated supermarket chain were comparable to the prices to unaffiliated parties. We compared Pastavilla's sales prices to the affiliated supermarket chain, for identical products, to sales prices to all other unaffiliated customers, net of all movement charges, discounts, rebates, direct expenses, and packing. Where prices to the affiliated party were on average 99.5 percent or more of the price to the unaffiliated parties, we determined that sales made to the affiliated party were at arm's length (*see* 19 CFR 351.403(c) and 62 FR at 27355). We only included in our margin analysis those sales to the affiliated party that were made at arm's length.

**Cost of Production Analysis**

Before making any comparisons to normal value, we conducted a COP analysis to determine whether Pastavilla's home market sales were made below the cost of production. We calculated the COP based on the sum of Pastavilla's cost of materials and fabrication for the foreign like product, plus amounts for selling, general, and administrative expenses (SG&A) and packing, in accordance with section 773(b)(3) of the Act. We relied on Pastavilla's information as submitted, except in the specific instances discussed below.

As noted above, we determined that the Turkish economy experienced significant inflation during the POR. Therefore, to avoid the distortive effect of inflation on our comparison of costs and prices, we requested that Pastavilla submit the product-specific cost of manufacturing (COM) incurred during each month of the POR. We calculated a POR-average COM for each product after indexing the reported monthly costs during the POR to an equivalent currency level using the Turkish wholesale price index from the International Financial Statistics published by the International Monetary Fund (IMF). We then restated the POR-average COM in the currency value of each respective month.

We revised Pastavilla's submitted G&A expense rate to exclude Duzey's G&A expenses and its cost of sales from the calculation of the rate. In addition, we calculated a severance rate and multiplied the revised G&A expense rate, the reported interest expense rate, and the severance expense rate by the monthly COMs to derive product-specific monthly COPs. (*See* Memorandum to Christian Marsh from Stan Bowen dated July 31, 1998 for further details.)

**Test of Home Market Prices**

We compared the product-specific monthly COPs (less selling expenses) to home market sales of the foreign like product in order to determine whether sales had been made at prices below the COP. We determined the net home market prices for the below-cost test by subtracting from the gross unit price any applicable movement charges, discounts, rebates, direct and indirect selling expenses, and packing expenses.

**Results of COP Test**

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of Pastavilla's sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in ''substantial quantities.'' Where 20 percent or more of a respondent's sales of a given product during the six-month period were at prices less than the COP, we determined such sales to have been made in ''substantial quantities'' within an extended period of time in accordance with section 773(b)(2)(B) and (C) of the Act and disregarded the below-cost sales from our analysis. We used the remaining sales in our margin analysis, in accordance with section 773(b)(1).

**Price-to-Price Comparisons**

We calculated NV based on CIF or delivered prices to home market customers. We made deductions from the starting price for inland freight, inland insurance, discounts, and rebates. In accordance with section 773(a)(6) of the Act, we deducted home market packing costs and added U.S. packing costs. In addition, we made adjustments for direct expenses, including imputed credit expenses, advertising, warranty expenses, and interest revenue, in accordance with section 773(a)(6)(C)(iii) of the Act. We recalculated credit expenses and inventory carrying costs using the monthly short-term Turkish interest rates from the Economist.[2]

We also made adjustments for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act. We based this adjustment on the difference in the variable costs of manufacturing for the foreign like product and subject merchandise, using POR-average costs as adjusted for inflation for each month of the POR, as described in the *Cost of Production Analysis* section above.

**Level of Trade**

In accordance with section 773(a)(1)(B) of the Act, we determined NV based on sales in the comparison market at the same level of trade as the U.S. CEP sales, to the extent practicable. When there were no sales at the same level of trade, we compared U.S. sales to home market sales at a different level of trade.

To determine whether home market sales were at different levels of trade we examined stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated (or arm's length) customers. If the comparison-market sales were at a different level of trade and the differences affected price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the level of trade of the export transaction, we made a level-of-trade adjustment under section 773(a)(7)(A) of the Act.

Finally, if the NV level was more remote from the factory than the CEP level and there was no basis for determining whether the difference in levels between NV and CEP affected price comparability, we granted a CEP offset, as provided in section 773(a)(7)(B) of the Act. (*See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa,* 62 FR 61731 (November 19, 1997).) For a detailed description of our level-of-trade analysis for these preliminary results, see the July 31, 1998, Level of Trade Memorandum to Susan Kuhbach, on file in Import Administration's Central Records Unit (Room B–099) of the main Commerce building.

**Currency Conversion**

Because this proceeding involves a high-inflation economy, we limited our comparison of U.S. and home market sales to those occurring in the same month (as described above) and only used daily exchange rates. (*See Steel Cookware from Mexico* and *Notice of Final Determination of Sales at Less Than Fair Value: Certain Pasta from Turkey,* 61 FR 30309 (June 14, 1996).)

The Department's preferred source for daily exchange rates is the Federal Reserve Bank. However, the Federal Reserve Bank does not track or publish exchange rates for the Turkish Lira. Therefore, we made currency conversions based on the daily exchange rates from the Dow Jones Service, as published in the Wall Street Journal.

**Preliminary Results of Review**

As a result of our review, we preliminarily determine that the following percentage weighted-average margins exist for the period January 19, 1996 through June 30, 1997:

| Manufacturer/exporter | Margin (percent) |
|---|---|
| Pastavilla | 0 |
| Filiz Gida | 63.29 |

We will disclose the calculations used in our analysis to parties to this proceeding within five days of the publication date of this notice (*see* 19 CFR 351.224(b)). Any interested party may request a hearing within 30 days of the date of publication of this notice. (*see* 19 CFR 351.310(c)). Any hearing, if

[2] The Economist was the only source we found that published short-term lending rates for Turkey.

requested, will be held 44 days after the date of publication, or the first workday thereafter. Interested parties may submit case briefs within 30 days of the date of publication of this notice. Parties who submit case briefs in this proceeding should provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than 37 days after the date of publication. The Department will publish a notice of the final results of this administrative review, which will include the results of its analysis of issues raised in any such written comments or at the hearing, within 120 days from the publication of these preliminary results.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. If these preliminary results are adopted in our final results, we will instruct the Customs Service not to assess antidumping duties on Pastavilla's entries of the merchandise subject to the review. Upon completion of this review, the Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit rates will be effective upon publication of the final results of this administrative review for all shipments of certain pasta from Turkey entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rates for Pastavilla and Filiz will be the rate established in the final results of this review, except if the rate is less than 0.5 percent and, therefore, *de minimis*, the cash deposit will be zero; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review conducted by the Department, the cash deposit rate will be 60.87 percent, the ''All Others'' rate established in the LTFV investigation (*See Notice of Antidumping Duty Order and Amended Final Determination of Sales at Less Than Fair Value: Certain Pasta from Turkey*, 61 FR 38546 (July 24, 1996)).

These cash deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: July 31, 1998.

**Joseph A. Spetrini,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 98–21231 Filed 8–6–98; 8:45 am]

BILLING CODE 3510–DS–P

## COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

### Textile and Apparel Categories With the Harmonized Tariff Schedule of the United States; Changes to the 1998 Correlation

August 3, 1998.

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

**ACTION:** Changes to the 1998 Correlation

**FOR FURTHER INFORMATION CONTACT:** Lori E. Mennitt, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–3400.

**SUPPLEMENTARY INFORMATION:**

The Correlation: Textile and Apparel Categories based on the Harmonized Tariff Schedule of the United States (1998) presents the harmonized tariff numbers under each of the cotton, wool, man-made fiber, silk blend and other vegetable fiber categories used by the United States in monitoring imports of these textile products and in the administration of the textile program. The Correlation should be amended to include the changes indicated below. These changes were effective on August 1, 1998:

Changes to the 1998 Correlation

Category 222:
- Delete 6002.92.9000
- Add 6002.92.9020–Other knitted or crocheted fabrics of cotton, of single knit construction.
- Add 6002.92.9080–Other knitted or crocheted fabrics of cotton, other than of single knit construction.

Category 362:
- Delete 6302.10.0010
- Add 6302.10.0005–Pillowcases and bolster cases, knitted or crocheted, of cotton.
- Add 6302.10.0008–Sheets, knitted or crocheted, of cotton.
- Add 6302.10.0015–Other bed linen, knitted or crocheted, of cotton.

**Troy H. Cribb,**

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

[FR Doc. 98–21177 Filed 8–6–98; 8:45 am]

BILLING CODE 3510–DR–F

## COMMODITY FUTURES TRADING COMMISSION

### Public Information Collection Requirement

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Notice of Intent to Renew Information Collection #3038–0026: Gross Margining of Omnibus Account.

**SUMMARY:** The Commodity Futures Trading Commission is planning to renew information collection 3038–0026, Gross Margining of Omnibus Accounts. The information collection is required to ensure compliance with Commission Regulation 1.58 that requires Futures Commission Merchants (FCMs) to carry omnibus accounts on a gross, rather than a net basis. In compliance with the Paperwork Reduction Act of 1995, the Commission solicits comments to:

(1) evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including the validity of the methodology and assumptions used; (2) evaluate the accuracy of the agency's estimate of the burden of the collection of information including the validity of the methodology and assumptions used; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of the information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

**DATES:** Comments must be received on or before October 6, 1998.

**ADDRESSES:** Persons wishing to comment on this information collection should contact the CFTC Clearance Officer, 1155 21st Street NW., Washington, DC 20581, (202) 418–5160.

*Title:* Gross Margining of Omnibus Accounts.

*Control Number:* 3038–0026.

*Action:* Extension.

*Respondents:* Futures Commission Merchants.

*Estimated Annual Burden:* 5,000.

| Respondents | Regulation (17 CFR) | Estimated number of respondents | Annual responses | Est. avg. hours, per response |
|---|---|---|---|---|
| FCMs | 1.58 | 400 | 5,300 | .94 |

Issued in Washington, DC, on August 3, 1998.

**Jean A. Webb,**

*Secretary of the Commission.*

[FR Doc. 98–21121 Filed 8–6–98; 8:45 am]

BILLING CODE 6351–01–M

## COMMODITY FUTURES TRADING COMMISSION

### Public Information Collection Requirement

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Notice of intent to renew information collection 3038–0012: futures volume, open interest, price, deliveries and exchange of futures for physicals.

**SUMMARY:** The Commodity Futures Trading Commission is planning to renew information collection 3038–0012, Futures Volume, Open Interest, Price, Deliveries and Exchange of Futures for Physicals. Commission Regulation 16.01 requires the U.S. commodity exchanges to publish daily information on the items listed in the title of the collection. The information required by this rule is in the public interest and is necessary for market surveillance.

In compliance with the Paperwork Reduction Act of 1995, the Commission solicits comments to:

(1) evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including the validity of methodology and assumptions used; (2) evaluate the accuracy of the agency's estimate of the burden of the collection of information including the validity of the methodology and assumptions used; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of the information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

**DATES:** Comments must be received on or before October 6, 1998.

**ADDRESSES:** Persons wishing to comment on this information collection should contact the CFTC Clearance Officer, 1155 21st Street NW, Washington, DC 20581, (202) 418–5160.

*Title:* Futures Volume, Open Interest, Price, Deliveries and Exchange of Futures for Physicals.

*Control Number:* 3038–0012.

*Action:* Extension.

*Respondents:* Commodity Exchanges.

*Estimated Annual Burden:* 1,320.

| Respondents | Regulation (17 CFR) | Estimated number of respondents | Annual responses | Est. avg. hours. per response |
|---|---|---|---|---|
| Exchanges | 16.01 | 12 | 2640 | 0.5 |

Issued in Washington, D.C. on August 3, 1998.

**Jean A. Webb,**

*Secretary of the Commission.*

[FR Doc. 98–21122 Filed 8–6–98; 8:45 am]

BILLING CODE 6351–01–M

## COMMODITY FUTURES TRADING COMMISSION

### Public Information Collection Requirement Submitted to Office of Management and Budget for Review

**AGENCY:** Commidity Futures Trading Commission.

**ACTION:** Notice of Submission of Information Collection #3038–0005—Rules Relating to the Operations and Activities of Commodity Pool Operators and Commodity Trading Advisors and to Monthly Reporting by Futures Commission Merchants.

**SUMMARY:** The Commodity Futures Trading Commission has submitted information collection #3038–0005—Rules Relating to the Operations and Activities of Commodity Pool Operators and Commodity Trading Advisors and to Monthly Reporting by Futures Commission Merchants to OMB for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13). The information required by this collection is in the public interest and is necessary for Commission oversight.

**DATES:** Comments must be received on or before September 8, 1998.

**ADDRESSES:** Persons wishing to comment on this information collection should contact the Desk Officer, CFTC, Office of Management and Budget, Room 3228, NEOB, Washington, DC 20503, (202) 395–7340. Copies of the submission are available from the Agency Clearance Officer, (202) 418–5160.

*Title:* Rules Relating to the Operations and Activities of Commodity Pool Operators and Commodity Trading Advisors and to Monthly Reporting by Futures Commission Merchants.

*Control Number:* 3038–0005.

*Action:* Extension.

*Respondents:* Commodity Pool Operators and Commodity Trading Advisors.

*Estimated Annual Burden:* 55,725.58 hours.

| Respondents | Regulation (17 CFR) | Estimated number of respondents | Annual responses | Est. avg. hours. per response |
|---|---|---|---|---|
| CPOs/CTAs | Part 4 and 133(d) | 4,624 | 11,243.25 | 4.95 |

Issued in Washington, D.C., on August 3, 1998.

**Jean A. Webb,**

*Secretary to the Commission.*

[FR Doc. 98–21123 Filed 8–6–98; 8:45 am]

BILLING CODE 6351–01–M

## DEPARTMENT OF DEFENSE

### Office of Secretary

### Proposed Collection; Comment Request.

**AGENCY:** Office of the Under Secretary of Defense (Personnel and Readiness), DOD.

**ACTION:** Notice.

In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Under Secretary of Defense (Personnel and Readiness) announces the following proposed reinstatement of the DD Form 372, ''Request for Verification of Birth,'' a public information collection and seeks public comment for the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions to the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

**DATES:** Consideration will be given to all comments received by October 30, 1998.

**ADDRESSES:** Written comments and recommendations on the proposed information collection should be sent to the Office of the Under Secretary of Defense (Personnel and Readiness)(Force Management Policy)(Military Personnel Policy)/ Accession Policy, ATTN: LTC Michael Ostroski, Room 2B271, 4000 Defense Pentagon, Washington, DC 20301–4000.

**FOR FURTHER INFORMATION CONTACT:** To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address or call at (703) 695–5529.

*Title, Associated Form and OMB Number:* ''Request for Verification of Birth,'' DD Form 372, OMB Control Number: 0704–0006.

*Needs And Uses:* Title 10, USC 505, 3253, 5013, and 8253, require applicants meet minimum and maximum age and citizenship requirements for enlistment into the Armed Forces (including the Coast Guard). If an applicant is unable to provide a birth certificate, the recruiter will forward a DD Form 372, ''Request for Verification of Birth,'' to a state or local agency requesting verification of the applicant's birth date. This verification of the birth date ensures that the applicant does not fall outside the age limitations, and that the applicant's place of birth supports the citizenship status claimed by the applicant.

*Affected Public:* City, County or State bureau's of Vital Statistics or Records. Normally, this form would be completed by the records clerk of the appropriate office to verify the date of birth for an applicant.

*Annual Burden Hours:* 8,300.

*Number Of Respondents:* 100,000.

*Responses per Respondent:* 1.

*Average Burden per Response:* .083 hours per respondent.

*Frequency:* On occasion.

**SUPPLEMENTARY INFORMATION:**

### Summary of Information Collection

This information collected provides the Armed Services with the exact birth date of an applicant. The DD Form 372 is the method of collecting and verifying birth data on applicant's who are unable to provide a birth certificate from their city, county or state. This DoD Form is considered the official request for obtaining the birth data on applicants.

Dated: August 3, 1998.

**Patricia L. Toppings,**

*Alternate OSD Federal Register, Liaison Officer, Department of Defense.*

[FR Doc. 98–21095 Filed 8–6–98; 8:45 am]

BILLING CODE 5000–04–M

## DEPARTMENT OF DEFENSE

### Office of the Secretary

### Establishment of the Senior Advisory Board on National Security

**AGENCY:** Notice of Establishment.

**SUMMARY:** The Senior Advisory Board on National Security is being established in consonance with the public interest and in accordance with the provisions of Pub. L. 92–463, the ''Federal Advisory Committee Act,'' Title 5 U.S.C. Appendix 2.

This Senior Advisory Board will serve as a sounding board and visionary resource for the National Security Study Group. This Study Group will conduct a comprehensive review of the early 21st Century global security environment; develop a comprehensive overview of American strategic interests and objectives for this probable security environment; delineate a national security strategy appropriate to that environment and the nation's character; identify a range of alternatives to implement this national security strategy; and develop a detailed plan to implement the range of alternatives by describing the sequence of measures necessary to attain national security strategy, to include recommending concomitant changes to the national security apparatus as necessary.

The Senior Advisory Board on National Security will consist of two co-chairs and 10–12 other individuals who are accomplished and prominent United States citizens and reflect a cross-section of American public and private sector life. The co-chairs shall submit three unclassified reports to the Secretary of Defense. The Board and Study Group will be terminated not later than 30 days after the co-chairs submit the final report to the Secretary of Defense, no later than March 15, 2001.

**FOR FURTHER INFORMATION CONTACT:** Contact Dr. Keith A. Dunn, (703) 697–7588.

Dated: August 3, 1998.

**L.M. Bynum,**

*OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 98–21094 Filed 8–6–98; 8:45 am]

BILLING CODE 5000–04–M

## DEPARTMENT OF DEFENSE

### Office of the Secretary

### Strategic Environmental Research and Development Program, Scientific Advisory Board

**ACTION:** Notice.

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463), announcement is made of the following Committee meeting:

*Date of Meeting:* August 12, 1998 from 0830 to 1730 and August 13, 1998 from 0800 to 1530.

*Place:* Arlington Hilton Hotel & Towers, 950 North Stafford Street, Mezzanine-Gallery II, Arlington, VA.

*Matters to be Considered:* Research and Development proposals and continuing projects requesting Strategic Environmental Research and Development Program funds in excess of $1M will be reviewed.

This meeting is open to the public. Any interested person may attend, appear before, or file statements with the Scientific Advisory Board at the time and in the manner permitted by the Board.

**FOR FURTHER INFORMATION CONTACT:** Mrs. Amy Kelly, SERDP Program Office, 901 North Stuart Street, Suite 303, Arlington, VA or by telephone at (703) 696–2124.

Dated: July 31, 1998.

**L. M. Bynum,**

*Alternate OSD Federal Register Liaison Office Officer, Department of Defense.*

[FR Doc. 98–21093 Filed 8–6–98; 8:45 am]

**BILLING CODE 5000–04–M**

## DEPARTMENT OF DEFENSE

### Deparment of the Navy

### Record of Decision and General Conformity Determination for the Development of Facilities To Support Basing U.S. Pacific Fleet F/A–18E/F Aircraft on the West Coast of the United States

**AGENCY:** Department of the Navy, Department of Defense.

**ACTION:** Notice of record of decision.

**SUMMARY:** The Department of the Navy, after carefully weighing the operational, environmental, and cost implications of basing U.S. Pacific Fleet F/A–18E/F aircraft in the western United States, announces its deicsion to base those aircraft, and associated military and civilian personnel, and family members, at Naval Air Station (NAS) Lemoore.

**FOR FURTHER INFORMATION CONTACT:** Mr. Samuel L. Dennis, Naval Facilities Engineering Field Activity West Command (Code 7031), 900 Commodore Drive, San Bruno, CA 94066–5006, telephone number (650) 244–3007.

**SUPPLEMENTARY INFORMATION:** The text of the entire Record of Decision (ROD) is provided as follows:

The Department of the Navy (DON), pursuant to Section 102(c) of the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. Section 4331 et. seq.), and the regulations of the Council on Environmental Quality (CEQ) that implement NEPA procedures (40 CFR Parts 1500–1508), hereby announces its decision to construct facilities to support basing of U.S. Pacific Fleet F/A–18E/F aircraft, and associated military and civilian personnel, and family members, at NAS Lemoore, California.

F/A–18E/F aircraft incoroprate major operational improvements that enhance strike/fighter capability and replace older outdated aircraft models that cannot accommodate new weapons and weapons systems. The F/A–18E/F aircraft is intended to replace existing strike/fighter capacity on the West Coast.

Basing and operating of 164 F/A–18E/F aircraft will be accomplished as set out in the Preferred Alternative described in the Final Environmental Impact Statement (FEIS). To support personnel, operations, and maintenance associated with the F/A–18E/F homebasing, 12 construction projects, consisting primarily of additions to existing facilities, are required at NAS Lemoore. The homebasing of the F/A–18E/F aircraft will also increase aircraft operations at NAS Lemoore and associated training ranges, particularly the R–2508 complex.

Implementation of the decision will begin in 1999 with Phase I, the introduction of 92 F/A–18E/F strike/fighter aircraft comprising one new fleet replacement squadron and four new fleet operational squadrons. Phase II of the implementation process, extending to 2010, involves replacement of 72 existing F/A–18C/D strike/fighter aircraft based at NAS Lemoore with F/A–18E/F strike/fighter aircraft.

Pursuant to Section 176(c) of the Clean Air Act (CAA) (42 U.S.C. 7476(c)), the DON has determined that the homebasing of F/A–18E/F aircraft as NAS Lemoore will conform to the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) Implementation Plan.

### Process

A Notice of Intent (NOI) to prepare an EIS for the homebasing of up to 164 F/A–18E/F aircraft on the West Coast of the United States was published in the **Federal Register** on April 23, 1997. Three public scoping meetings were held on April 28, 29 an 30 of 1997, in Lemoore, CA; El Centro, CA; and Point Mugu/Camarillo, CA, respectively.

A Notice of Availability (NOA) for the Draft EIS (DEIS) was published in the **Federal Register** on December 12, 1997. Public hearings were held on January 7 and 8, in Lemoore, CA, and El Centro, CA, respectively. Approximately 75 individuals, agencies, and organizations submitted comments on the DEIS. The FEIS addressed all oral and written comments.

The NOA for the FEIS was published in the **Federal Register** on June 5, 1998. Public notices and news releases noting the availability of the FEIS and draft Final Clean Air Act (CAA) Conformity Determination were published in local and regional newspaper on June 5, 1998. The DON received approximately 40 public comments during the 30 day public comment period.

### Alternatives Considered

The DON screened nine West Coast Navy and Marine Corps Air installations as potential sites for homebasing the F/A–18E/F aircraft. This screening process examined installations relative to the following operational criteria: (1) Field elevation, (2) training ranges, (3) basing at least two F/A–18E/F squadrons at each installation, (4) airfield tempo of operations, (5) 24-hour aircraft operations, (6) dual runways, and (7) field carrier landing practice. Installations meeting the operational screening criteria were NAS Lemoore and Naval Air Facility (NAF) El Centro.

The DON evaluated operational, logistical, and personnel requirements, environmental impacts, and life cycle cost of homebasing at each of the alternative locations. Based upon this comparative analysis, the DON selected NAS Lemoore as its Preferred Alternative. NAS Lemoore is also the environmentally preferred alternative.

### Environmental Impacts

Environmental resources involving land use and airspace, visual resources, socioeconomics, cultural resources, traffic and circulation, air quality, noise, biological resources, hydrological resources, utilities and services, public health and safety, and hazardous materials and waste were analyzed in the EIS. The DON also considered potential cumulative impacts of the proposed action and consistency of the proposed action with federal policies addressing environmental justice. This Record of Decision focuses on the

significant impacts that could result from the homebasing of F/A–18E/F aircraft at NAS Lemoore.

*Air Quality*

There is the potential for significant impacts on air quality due to emissions from activities associated with the increased air operations associated with the F/A–18E/F aircraft. Direct and indirect emissions would exceed the relevant CAA conformity de minimis thresholds for ozone and PM10 precursors. A formal CAA conformity determination that net emission increases have been addressed as required by SJVUAPCD Rule 9110, which incorporates by reference the EPA Determination of Conformity for General Federal Actions (40 CFR 51.860). Maximum conformity-related emission increases to support F/A–18E/F aircraft equal 340.12 tons per year of reactive organic compounds, 304.77 tons per year of nitrogen oxides, and 167.86 tons per year of PM10. These conformity-related emissions have been compensated by mobile source conformity offsets previously obtained by NAS Lemoore as a result of the closure of Castle Air Force Base in 1995 and an additional 218.28 tons of reactive organic compound mobile source conformity offsets transferred by the Federal Aviation Administration (FAA). In the Air Force ROD for the disposal of Castle Air Force Base, signed in January 1995, the Air Force transferred to the DON air credits so that the DON could achieve conformity for the then proposed realignment of Navy aircraft from former NAS Miramar to NAS Lemoore. That realignment did not occur, leaving the DON with unused offsets in the amount of 100 tons per year of reactive organic compounds, 367.1 tons per year of nitrogen oxides, and 151.6 tons per year of PM10. The remainder of the Air Force credits, 2311.2 tons of reactive organic compounds and 642.7 tons of nitrogen oxide were transferred to the FAA by the Air Force for their use in satisfying any conformity requirements generated by a airport redevelopment proposal for Castle Air Force Base. To date the civilian airport redevelopment proposal has not required the use of mobile source conformity offsets. The DON identified the need for 218.28 tons of reactive organic compounds to support the introduction of the F/A–18E/F aircraft. The FAA concurred in the request and transferred this amount of reactive organic compound mobile source conformity offsets for DON use at NAS Lemoore effective July 22, 1998. The remaining pollutant-specific deficiencies and surpluses are: a dificienty of 21.84 tons per year for reactive compounds; a surplus of 62.33 tons per year for nitrogen oxides; and a deficiency of 16.26 tons per year for PM10 (FEIS Appendix E).

The SJVUAPCD recognizes and supports interpollutant trading for purposes of demonstrating CAA conformity. Nitrogen oxides are recognized by the SJVUAPCD as both ozone and PM10 precursors. The surplus conformity offsets of nitrogen oxide emissions are more than sufficient to provide interpollutant offsets that address the reactive organic compound and PM10 conformity offset requirements. Consequently CAA conformity has been demonstrated (FEIS Appendix E) pursuant to 40 CFR 51.858(a) (2) and 40 CFR 58.858(a) (5) (iii). Both EPA and SJVUAPCD have concurred with DON's conformity determination. No other comments were received on the draft Final CAA General Conformity Determination.

This ROD provides an enforceable mechanism for implementing the mobile source conformity offsets consistent with the EPA's general conformity rule. NAS Lemoore will follow SJVUAPCD procedures to ensure that new, relocated or modified facilities and equipment meet applicable rules and regulations (including all state implementation plan requirements) prior to facility construction or installation.

As part of this Record of Decision, I approve the CAA Conformity Determination included in FEIS Appendix E.

*Hazardous Substances*

There is the potential for significant impacts from the exposure of flightline personnel at NAS Lemoore to hazardous substances contained in aviation fuel. With increased fuel handling to support the additional F/A–18E/F aircraft, the risk of exposure to hazardous substances will increase. Additionally, increased fuel handling will increase the risk of fuel spills. To mitigate these potential impacts, plans and programs governing the construction of new fuel storage areas, the operation of new fuel storage areas, and fuel handling procedures will be amended to implement procedures for reducing exposure to hazardous substances associated with increased fuel usage. Combined with current efforts to meet regulatory requirements for the installation of enhanced monitoring equipment for the existing fuel storage areas, the risk of exposure to hazardous substances will be reduced to a less than significant level. Additionally, existing Spill Prevention Control and Countermeasure (SPCC) plans will be amended to account for the increased risk of fuel spills.

*Schools*—There is the potential for significant impacts to schools because the homebasing of F/A–18E/F aircraft will add between 783 and 1,283 students to area school districts. Area schools are either near or over capacity. An increase in student population will exacerbate this situation. School districts may be eligible for federal funding which aids local school districts in the education of military children. Schools must apply for impact aid and the funds are paid directly by the Department of Education. To mitigate these potential impacts, the DON will assist affected school districts, to the extent practicable, in their pursuit of federal impact aid. Implementation of this mitigation measure may reduce the level of impact to one that is less than significant. However, full funding of federal impact aid is unlikely because of federal funding decreases in recent years.

*Traffic*

There is the potential for significant impacts to traffic circulation at the signalized intersection of Grangeville Road and State Route 41 during the evening peak hour due to increases in personnel assigned to NA Lemoore. This impact could be mitigated by increasing the signal cycle at the Grangeville Road and State Route 41 intersection during evening peak hour. With a change in cycle length from 80 to 90 seconds, the impact on the intersection would be reduced to a less than significant level. As this mitigation measure involves local off-base roadways, DON has no authority to implement the measure. Implementation is under the control of state and/or local officials.

*Noise*

While there will be no significant impacts from noise associated with operation of F/A–18E/F aircraft, it is clear from public comments throughout the EIS process that the public is concerned with noise impacts from aircraft, especially overflight of national parks and wilderness areas. In response to these public comments the Navy conducted focused noise analyses for four areas of concern: the NAS Lemoore airfield and vicinity, the transit routes to the R–2508 Airspace Complex, the R–2508 Airspace Complex, and the VR–1257 military training route (MTR). The focused noise analyses are discussed in FEIS Section 4.7.

Average daily noise levels, expressed as Community Noise Equivalent Level (CNEL), will increase by up to 5 dBA at

NAS Lemoore and some areas in the immediate vicinity. Even with this increase military family housing, on-base schools, and affected off-base agricultural lands will not be exposed to incompatible noise levels.

There are two primary flight corridors connecting NAS Lemoore with the R–2508 Complex. These corridors are identified by the name assigned to the associated R–2508 access points, Kiote and Swoop. Both of these corridors overfly western parts of Sequoia and Kings Canyon National Parks. Aircraft from NAS Lemoore normally enter the R–2508 Complex via one access point and return to NAS Lemoore via the other, thus separating aircraft flying in different directions at similar altitude. A new access point, Fangg, has been proposed north of the Kiote access point and near the northwestern corridor of the R–2508 Complex. This proposal is currently under review by FAA. Development of the Fangg access point is being coordinated with the National Park Service and the R–2508 Central Coordination Facility (CCF). If the new access point is approved by the FAA, NAS Lemoore will discontinue use of the Kiote access point. Thus, the entry and exit points for the R–2508 Complex would be from the northern and southern most access points and away from the areas most used by park visitors.

Analysis of noise from existing NAS Lemoore air traffic along these corridors indicates a CNEL level of 50 dBA. The addition of the F/A–18E/F aircraft would increase the CNEL by about 6 dBA, resulting in CNEL levels along the highest ridgelines between 50 and 56 dBA. Visitors to national parks and wilderness areas will hear individual aircraft, but the noise will be of limited duration and will not significantly affect use of the parks or wilderness areas. Establishment of the Fangg access point will route aircraft away from areas generally used by park visitors. DON will continue to work with the National Park Service to address concerns about overflight and noise.

Once the aircraft cross the crest of the Sierra Mountains they enter the R–2508 Complex. Aircraft from NAS Lemoore generally operate in the northern half of the complex and are required by the range manager to maintain flight altitudes of at least 3,000 feet above ground level (AGL) when flying over designated noise sensitive areas. Phase 1 of the proposed action will increase the number of Navy operations in the R–2508 Complex by approximately 7,000 per year, resulting in a 19.5 percent increase in total military operations within the complex. This would result in a CNEL increase of less than 1 dBA.

Implementation of Phase 2 of the proposed action, the replacement of existing F/A–18C/D aircraft with F/A–18E/F aircraft, will result in a decrease in noise impacts within the R–2508 Complex. This decrease would occur because most of the sorties would be conducted by newer F/A–18E/F aircraft, which produce less noise at higher power settings than the existing F/A–18C/D aircraft.

Aircraft stationed at NAS Lemoore use a number of military training routes (MTRs). All but one of these routes avoid significant noise sensitive land uses. The VR–1257 low altitude MTR passes over portions of Joshua Tree National Park and Anza-Borrego Desert State Park. Portions of the corridor are flown at altitudes as low as 400 feet AGL. As a result of discussions with the National Park Service the Navy voluntarily raised the flight altitude for the portion of VR–1257 that crosses Joshua Tree National Park. This portion is flown at FAA's maximum allowable altitude of 1,500 feet AGL. Current use of the VR–1257 is relatively low. Only 164 sorties were flown in 1997, of which 87 were attributed to F/A–18C/D aircraft. An additional 50 sorties per year would be added to VR–1257 by F/A–18E/F aircraft. CNEL noise levels would increase only by an undetectable 0.5 dBA. With F/A–18E/F aircraft using the MTR, CNEL noise levels would be 55 dBA for those portions of the route flown at 400 feet AGL, and less than 50 dBA for those portions of the corridor flown at or above altitudes of 1,000 AGL. Visitors to Joshua Tree National Park and Anza-Borrego Desert State Park will hear individual aircraft, but the noise will be of limited duration and will not significantly affect use of the parks. DON will continue to work with the National Park Service and state park officials to address concerns about overflight and noise.

**Response to Comments Received Regarding the Final Environmental Impact Statement**

The DON received 40 comments on the FEIS from two federal agencies, one state agency, three local agencies, and numerous citizens groups and individuals. A majority of the comments received on the FEIS dealt with noise impacts to national parks, wilderness areas, and State parks associated with increased aircraft operations. Generally those that commented upon noise impacts to recreational areas simply disagreed with the conclusions reached by the FEIS. Substantive comments are addressed below.

Several commentors criticized the discussion of noise impacts for not considering the unique nature of solitude in national parks and wilderness areas. Federal and state land management agencies generally have not adopted noise criteria for open space, natural resource management, or recreation lands under their jurisdiction. The National Park Service, for example, identifies ''sounds of nature'' and ''natural quiet'' as resources to be protected, but does not have any quantitative criteria for determining when the magnitude or frequency of noise events constitutes an adverse impact on these resources. Consequently, noise impacts affecting park and wilderness lands were assessed using existing annual average day/night noise criteria (CNEL).

The National Parks and Conservation Association commented that the Navy failed to comply with Section 4(f) of the Transportation Act (49 U.S.C. Section 303(c)) which requires special analysis of actions that use parklands. The Navy is not required to undertake such special analysis for aircraft operations. Section 1079 of Title 10, U.S. Code, expressly excludes military aircraft operations from the application of section 4(f) of the Transportation Act.

The National Parks and Conservation Association has suggested the proposal to add a fourth access point to the R–2508 Complex merits the issuance of a supplemental EIS. A supplemental EIS is not required for every piece of information added to a final EIS as a result of review of the draft EIS. By establishing an iterative review and revision process for NEPA documents, CEQ regulations clearly contemplate modification and expansion of analysis in the final EIS over that contained in the draft. The establishment of a new access point is adequately discussed in the FEIS. The types of impacts associated with the new access point do not differ from those described for the existing access points. In fact, because establishment of a new access point will move aircraft away from areas normally used by park visitors, the overall impact of establishing a new access point is positive. A supplemental EIS is not warranted.

The National Parks and Conservation Association has stated that the ongoing Department of Defense/National Park Service study of the perception of aircraft noise upon park visitors must be completed prior to any decision on the proposed action. The FEIS discusses the noise levels associated with the proposed action and their impact upon the human environment based upon existing criteria. Should the ongoing

study develop new criteria for analysis of noise impacts on parks or wilderness areas, DON would evaluate that information to determine whether supplemental analysis under NEPA was warranted.

**Conclusions**

In determining where to homebase the U.S. Pacific Fleet F/A–18E/F aircraft on the west coast, I considered the following: assets and capabilities of existing Navy and Marine Corps Air Stations; the F/A–18E/F operational and training requirements; environmental impacts; costs associated with construction of facilities, the operation and maintenance of aircraft, and training of personnel; and comments received during the DEIS and FEIS public involvement periods.

After carefully weighing all of these factors and analyzing the data presented in the Final Environmental Impact Statement, I have determined that the Preferred Alternative, homebasing the F/A–18E/F aircraft at NAS Lemoore, has the fewest adverse environmental impacts, best meets the operational requirements for the F/A–18E/F, and involves the minimum additional costs associated with the development of facilities to support the F/A–18E/F aircraft and personnel.

Therefore, on behalf of the Department of the Navy, I have decided to implement the proposed action by homebasing 164 F/A–18E/F aircraft at NAS Lemoore. In addition to the specific mitigation measures identified in this Record of Decision, the Department of Navy will continue to review its operational procedures and coordinate with other federal, state, and local entities as necessary to determine if any additional mitigation measures are feasible and practicable.

Dated: July 28, 1998.

**Duncan Holaday,**

*Deputy Assistant Secretary of the Navy, (Installations and Facilities).*

[FR Doc. 98–21247 Filed 8–6–98; 8:45 am]

BILLING CODE 3810–FF–M

## DEPARTMENT OF EDUCATION

### National Educational Research Policy and Priorities Board; Teleconference

**AGENCY:** National Educational Research Policy and Priorities Board; Education.

**ACTION:** Notice of Executive Committee Teleconference.

**SUMMARY:** This notice sets forth the schedule and proposed agenda of a forthcoming teleconference of the Executive Committee of the National Educational Research Policy and Priorities Board. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend the meeting. The public is being given less than 15 days notice of this meeting because of the need to accommodate the schedules of the members.

**DATES:** August 10, 1998.

**TIME:** 2–3 p.m., EDT.

**LOCATION:** Room 100, 80 F St., NW, Washington, DC 20208–7564.

**FOR FURTHER INFORMATION CONTACT:** Thelma Leenhouts, Designated Federal Official, National Educational Research Policy and Priorities Board, Washington, DC, 20208–7564. Tel.: (202) 219–2065; fax: (202) 219–1528; e-mail: Themla__Leenhouts@ed.gov.

**SUPPLEMENTARY INFORMATION:** The National Educational Research Policy and Priorities Board is authorized by Section 921 of the Educational Research, Development, Dissemination, and Improvement Act of 1994. The Board works collaboratively with the Assistant Secretary for the Office of Educational Research and Improvement to forge a national consensus with respect to a long-term agenda for educational research, development, and dissemination, and to provide advice and assistance to the Assistant Secretary in administering the duties of the Office. The teleconference is open to the public. The Executive Committee will consider issues related to evaluations of staff performance. Records are kept of all Board proceedings and are available for public inspection at the office of the National Educational Research Policy and Priorities Board, Suite 100, 80 F St., NW, Washington, DC 20208–7564.

Dated: August 3, 1998.

**Eve M. Bither,**

*Executive Director.*

[FR Doc. 98–21127 Filed 8–6–98; 8:45 am]

BILLING CODE 4000–01–M

## DEPARTMENT OF EDUCATION

### National Educational Research Policy and Priorities Board; Meeting

**AGENCY:** National Educational Research Policy and Priorities Board; Education.

**ACTION:** Notice of Meeting.

**SUMMARY:** This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Educational Research Policy and Priorities Board. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend the meeting.

**DATES:** September 16, 17, and 18, 1998.

**TIME:** September 16 and 17, 9 a.m. to 5 p.m.; September 18, 9 a.m. to 3 p.m.

**LOCATION:** Room 100, 80 F St., NW, Washington, D.C. 20208–7564.

**FOR FURTHER INFORMATION CONTACT:** Thelma Leenhouts, Designated Federal Official, National Educational Research Policy and Priorities Board, Washington, D.C. 20208–7564. Tel.: (202) 219–2065; fax: (202) 219–1528; e-mail: *Thelma Leenhouts@ed.gov*, or nerppb@ed.gov. The main telephone number for the Board is (202) 208–0692.

**SUPPLEMENTARY INFORMATION:** The National Educational Research Policy and Priorities Board is authorized by Section 921 of the Educational Research, Development, Dissemination, and Improvement Act of 1994. The Board works collaboratively with the Assistant Secretary for the Office of Educational Research and Improvement to forge a national consensus with respect to a long-term agenda for educational research, development, and dissemination, and to provide advice and assistance to the Assistant Secretary in administering the duties of the Office. The meeting is open to the public. On September 16, the Board will conduct on-site visits to the five National Research Institutes housed at 555 New Jersey Ave., NW (directly adjacent to 80 F St., NW; schedule to be announced). On September 17, the Board will hear reports and make final comments on studies (on Peer Review, Reform of the Research, Development, and Communications System) commissioned by its various committees, and discuss the progress of its contract with the National Academy of Education.

On September 18, the Board will review and approve standards for monitoring grants, contracts, and cooperative agreements, and hear a briefing by Media and Information Services on results of a survey of customers of research findings. A final agenda will be available from the Board office on September 7, 1998.

Records are kept of all Board proceedings and are available for public inspection at the office of the National Educational Research Policy and Priorities Board, Suite 100, 80 F St., NW, Washington, D.C. 20208–7564.

Dated: August 4, 1998.

**Eve M Bither,**

*Executive Director.*

[FR Doc. 98–21128 Filed 8–6–98; 8:45 am]

BILLING CODE 4000–01–M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. ER98–3917–000]**

### American Electric Power Service; Notice of Filing

August 3, 1998.

Take notice that on July 27, 1998, the American Electric Power Service Corporation (AEPSC), tendered for filing executed service agreements under the Wholesale Market Tariff of the AEP Operating Companies (Power Sales tariff). The Power Sales Tariff was accepted for filing effective October 10, 1997 and has been designated AEP Operating Companies' FERC Electric Tariff Original Volume No. 5. AEPSC respectfully requests waiver of notice of permit the service agreements to be made effective for service as specified in the submittal letter of the Commission with this filing.

A copy of the filing was served upon the Parties and the State Utility Regulatory Commissions of Indiana, Kentucky, Michigan, Ohio, Tennessee, Virginia and West Virginia.

Any person desiring to be heard or to protest such 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 Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before August 10, 1998. Protests will be considered by the Commission to determine 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.

**David P. Boergers,**

*Secretary.*

[FR Doc. 98–21150 Filed 8–6–98; 8:45 am]

BILLING CODE 6717–01–M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. ER97–1432–002]**

### DePere Energy Marketing, Inc.; Notice of Filing

July 31, 1998.

Take notice that on July 28, 1998, DePere Energy Marketing, Inc. (DePere) tendered for filing, pursuant to Rule 205, 18 CFR 385.205, an amendment to its notice of change of circumstances filed on May 6, 1998, with respect to its original petition for waivers and blanket approvals under various regulations of the Commission and the order accepting its FERC Electric Rate Schedule No. 1 previously issued by the Commission.

DePere reports that it is no longer an affiliate of GPU, Inc., a public utility holding company and the parent company of Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company. GPU, Inc. no longer has any ownership interest in DePere. DePere is 100% owned by Michael Polsky, an individual, through his affiliate Polsky Energy Company.

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 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 filed on or before August 17, 1998. Protests will be considered by the Commission to determine 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.

**David P. Boergers,**

*Acting Secretary.*

[FR Doc. 98–21113 Filed 8–6–98; 8:45 am]

BILLING CODE 6717–01–M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. CP98–698–000]**

### El Paso Natural Gas Company; Notice of Request Under Blanket Authorization

August 3, 1998.

Take notice that on July 28, 1998, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP98–698–000 a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212) for authorization to construct and operate a delivery point in Dona Ana County, New Mexico to permit the firm transportation and delivery of natural gas to PNM Gas Services, a division of Public Service Company of New Mexico (PNM), under El Paso's blanket certificate issued in Docket Nos. CP82–435–000 and CP88–433–000, 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.

El Paso states that it provides firm transportation service for PNM pursuant to the terms and conditions of a Transportation Service Agreement dated November 12, 1990. El Paso states the proposed quantity of natural gas to be transported on a firm basis to the Santa Teresa Delivery Point is estimated to be 1,825,000 Mcf annually, or an average of 5,000 Mcf per day. The estimated maximum peak day natural gas requirement is 15,000 Mcf.

El Paso's request states that PNM seeks to deliver natural gas to new customers from a point on El Paso's 26″ O.D. California Line (Line No. 1100) and 30″ O.D. California First Loop Line (Line No. 1103) in Dona Ana County, New Mexico. El Paso states that PNM will use the gas to serve the residential, commercial and industrial requirements of its new customers in the Santa Teresa, New Mexico area.

El Paso states that construction of the proposed delivery point is not prohibited by its existing tariff, and that it has sufficient capacity to accomplish the deliveries of the requested gas volumes without detriment or disadvantage to El Paso's other customers. El Paso also states that the estimated cost of the Santa Teresa Delivery Point is $67,700.

El Paso avers that its environmental analysis supports the conclusion that construction and operation of the proposed Santa Teresa Delivery Point

will not be a major Federal action significantly affecting the human environment.

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 a protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

**David P. Boergers,**

*Secretary.*

[FR Doc. 98–21157 Filed 8–6–98; 8:45 am]

BILLING CODE 6717–01–M

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. ER98–3941–000]**

### Florida Power & Light Company; Notice of Filing

August 3, 1998.

On July 28, 1998, Florida Power & Light Company (FPL) filed its quarterly report for transactions during the calendar quarter ending June 30, 1998 under FPL's Market-Based Rate Tariff.

Any person desiring to be heard or to protest such 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 385.214). All such motions and protests should be filed on or before August 11, 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.

**David P. Boergers,**

*Secretary.*

[FR Doc. 98–21152 Filed 8–6–98; 8:45 am]

BILLING CODE 6717–01–M

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. ES98–42–000]**

### IES Utilities Inc.; Notice of Filing

August 3, 1998.

Take notice that on July 29, 1998, IES Utilities Inc. d/b/a Alliant Utilities (IES), filed an application with the Federal Energy Regulatory Commission, pursuant to Section 204 of the Federal Power Act (Act), seeking authority to issue not more than $200 million of debt securities, over a two-year period, beginning August 31, 1998.

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 Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before August 27, 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 mut file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**David P. Boergers,**

*Secretary.*

[FR Doc. 98–21155 Filed 8–6–98; 8:45 am]

BILLING CODE 6717–01–M

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### PJM Interconnection, L.L.C., Notice of Filing

August 3, 1998.

Take notice that on July 29, 1998, PJM Interconnection, L.L.C. (PJM) tendered for filing amendments to the PJM Open Access Transmission Tariff.

The amendments change the procedures for obtaining short-term firm point-to-point transmission service.

PJM requests an effective date of August 12, 1998 for the amendments.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulation 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). All such motions and protests should be filed on or before August 10, 1998. Protests will be considered by the Commission to determine 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.

**David P. Boergers,**

*Secretary.*

[FR Doc. 98–21164 Filed 8–6–98; 8:45 am]

BILLING CODE 6717–01–M

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. ER98–3946–000]**

### PacifiCorp; Notice of Filing

August 3, 1998.

Take notice that on July 28, 1998, PacifiCorp tendered for filing in accordance with the Commission's June 26, 1997 Order under FERC Docket No. ER97–2801–000, a Report showing PacifiCorp's transactions under PacifiCorp's FERC Electric Tariff, Original Volume No. 12 for the quarter ending on June 30, 1998.

Copies of this filing were supplied to the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

Any person desiring to be heard or to protest such 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 Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before August 11, 1998. Protests will be considered by the Commission to determine 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.

**David P. Boergers,**

*Secretary.*

[FR Doc. 98–21147 Filed 8–6–98; 8:45 am]

BILLING CODE 6717–01–M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. ER98–3945–000]**

### Lowell Cogeneration Company Limited Partnership; Notice of Filing

August 3, 1998.

Take notice that on July 28, 1998, Lowell Cogeneration Company Limited Partnership, tendered for filing a summary for the Quarter ending July 31, 1998.

Any person desiring to be heard or to protest such 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 385.214). All such motions and protests should be filed on or before August 11, 1998. Protests will be considered by the Commission to determine 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.

**David P. Boergers,**

*Secretary.*

[FR Doc. 98–21154 Filed 8–6–98; 8:45 am]

BILLING CODE 6717–01–M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. ER98–3261–000]**

### Reliable Energy, Inc.; Notice of Issuance of Order

August 3, 1998.

Reliable Energy, Inc., (Reliable) submitted for filing a rate schedule under which Reliable will engage in wholesale electric power and energy transactions as a marketer. Reliable also requested waiver of various Commission regulations. In particular, Reliable requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by Reliable.

On July 22, 1998, pursuant to delegated authority, the Director, Division of Rate Applications, Office of Electric Power Regulation, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Reliable 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).

Absent a request for hearing within this period, Reliable is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Reliable's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is August 21, 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,**

*Secretary.*

[FR Doc. 98–21165 Filed 8–6–98; 8:45 am]

BILLING CODE 6717–01–M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. ER98–3848–000]**

### Rochester Gas & Electric Corp.; Filing

August 3, 1998.

Take notice that on July 22, 1998, Rochester Gas & Electric Corporation (Rochester) tendered for filing a summary of their quarterly report of transactions under their market-based rate tariff for the period of April 1, 1998 to June 30, 1998.

Any person desiring to be heard or to protest such 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 Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before August 11, 1998. Protests will be considered by the Commission to determine 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.

**David P. Boergers,**

*Secretary.*

[FR Doc. 98–21151 Filed 8–6–98; 8:45 am]

BILLING CODE 6717–01–M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. CP98–645–000]**

### Trunkline Gas Company; Notice of Application

August 3, 1998.

Take notice that on June 30, 1998, Trunkline Gas Company (Trunkline), 5400 Westheimer Court, Houston, Texas 77056, filed an application with the Commission in Docket No. CP98–645–000 pursuant to Section 7 of the Natural Gas Act (NGA) for permission and approval to abandon by transfer approximately 720 miles of mainline transmission pipeline facilities to its affiliate, Trunkline A.P. Pipeline Company (TAPPC), all as more fully set forth in the request which is open to the public for inspection.

Trunkline proposes to abandon by transfer approximately 720 miles of 26-inch diameter pipeline (Line 100–1) and to reduce its certificated mainline capacity from the current level of 1,810 MDt equivalent of natural gas per day to 1,555 MDt equivalent of natural gas per day. Line 100–1 extends from the Longville compressor station in Grant Parish, Louisiana, to the Bourbon measuring station in Douglas County, Illinois. Trunkline states that TAPPC would convert Line 100–1 to the transportation of hydrocarbon vapor, such as ethane and related hydrocarbon vapors. Trunkline also states that TAPPC would use Line 100–1 in conjunction with new Illinois processing facilities to be built by Aux Sable Liquid L.P. TAPPC would use the acquired pipeline to transport hydrocarbon vapors from Illinois to the Louisiana Gulf Coast region.

Trunkline states that it proposes to abandon Line 100–1 in response to the under-utilization of Trunkline's system that exists on an annual basis and the excess capacity which exists in the Midwest region. Trunkline also states

that in the absence of vigorous discounting practices, the actual under-utilization of its system would be substantially greater. Trunkline further states that the proposed abandonment of Line 100–1 would have no adverse effect on the service needs of existing or future customers and would not affect Trunkline's ability to meet all of its firm service obligations.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 24, 1998, file with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 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 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 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 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 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 Trunkline to appear or be represented at the hearing.

**David P. Boergers,**

*Secretary.*

[FR Doc. 98–21156 Filed 8–6–98; 8:45 am]

BILLING CODE 6717–01–M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. ER98–2598–000]**

### White Mt. Hydroelectric Corp.; Notice of Withdrawal

August 3, 1998.

Take notice that on July 28, 1998, White Mt. Hydroelectric Corp. tendered for filing Notice of Withdrawal of its filing made on April 18, 1998, in Docket No. ER98–2598–000.

A copy of the notice is being served on the Public Service Company of New Hampshire and the New Hampshire Public Utilities Commission.

Any person desiring to be heard or to protest such 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 Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before August 17, 1998. Protests will be considered by the Commission to determine 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.

**David P. Boergers,**

*Acting Secretary.*

[FR Doc. 98–21148 Filed 8–6–98; 8:45 am]

BILLING CODE 6717–01–M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. ER98–2599–000]**

### White Mt. Hydroelectric Corp.; Notice of Withdrawal

August 3, 1998.

Take notice that on July 28, 1998, White Mt. Hydroelectric Corp., tendered for filing a Notice of Withdrawal of its filing made on April 17, 1998 in Docket No. ER98–2599–000.

A copy of the notice is being served on the Public Service Company of New Hampshire and the New Hampshire Public Utilities Commission.

Any person desiring to be heard or to protest such 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 Rules 211 and 214 of their Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before August 17, 1998. Protests will be considered by the Commission to determine 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.

**David P. Boergers,**

*Acting Secretary.*

[FR Doc. 98–21149 Filed 8–6–98; 8:45 am]

BILLING CODE 6717–01–M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. ER98–3944–000]**

### Wisconsin Electric Power Company; Notice of Filing

August 3, 1998.

Take notice that on July 28, 1998, Wisconsin Electric Power Company (Wisconsin Electric) tendered for filing pursuant to the Federal Energy Regulatory Commission's January 29, 1998 Order issued in Docket No. ER98–855–000, accepting Wisconsin Electric Power Company's (Wisconsin Electric) tariff for market based power sales and reassignment of transmission capacity, FERC Electric Tariff, Original Volume No. 8, is the quarterly transaction report for the calendar quarter ending June 30, 1998.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulation 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). All such motions and protests should be filed on or before August 11, 1998. Protests will be considered by the Commission to determine 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.

**David P. Boergers,**

*Secretary.*

[FR Doc. 98–21153 Filed 8–6–98; 8:45 am]

BILLING CODE 6717–01–M

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. ER97–2904–002, et al.]**

## Lake Benton Power Partners, LLC, et al.; Electric Rate and Corporate Regulation Filings

July 27, 1998.

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

### 1. Lake Benton Power Partners, LLC

[Docket No. ER97–2904–002]

Take notice that on June 18, 1998, Lake Benton Power Partners, LLC, tendered for filing a Notice of Withdrawal in the above referenced docket.

*Comment date:* August 10, 1998, in accordance with Standard Paragraph E at the end of this notice.

### 2. Goodrich Falls Hydroelectric Corporation

[Docket No. ER98–2653–000]

Take notice that on July 17, 1998, Goodrich Falls Hydroelectric Corporation tendered for filing a Notice of Withdrawal in the above-referenced docket.

*Comment date:* August 11, 1998, in accordance with Standard Paragraph E at the end of this notice.

### 3. Franklin Falls Hydroelectric Corporation

[Docket No. ER98–2654–000]

Take notice that on July 17, 1998, Franklin Falls Hydroelectric Corporation tendered for filing a Notice of Withdrawal in the above-referenced docket.

*Comment date:* August 11, 1998, in accordance with Standard Paragraph E at the end of this notice.

### 4. Sierra Pacific Power Company

[Docket No. ER98–3833–000]

Take notice that on July 22, 1998, Sierra Pacific Power Company (Sierra), tendered for filing pursuant to Section 205 of the Federal Power Act (the Act) and 18 CFR Part 35. The Amended Operating Agreement between Sierra Pacific Power Company, Plumas-Sierra Rural Electric Cooperative, Northern California Power Agency, and Pacific Gas and Electric Company dated May 26, 1998, (Amended Operating Agreement).

The Amended Operating Agreement expands service being provided to Plumas-Sierra Rural Electric Cooperative (Plumas) by Pacific Gas and Electric Company (PG&E) and Sierra under the existing Operating Agreement dated February 18, 1994. It allows Plumas to use the service for normal planned maintenance activities within Plumas' own transmission system and to receive service from both PG&E and Sierra at the same time provided that electrical isolation is maintained between the two source systems. On behalf of the contracting parties, Sierra requests that the Commission (1) review the filing on an expedited basis and (2) make the filing effective as soon as possible. Sierra requests waiver of the 60-day notice requirement of Section 205 of the Federal Power Act and any regulation to allow for an immediate effective date of July 23, 1998.

Copies of this filing were served upon the Public Service Commission of Nevada, the Public Utilities Commission of California and all interested parties.

*Comment date:* August 11, 1998, in accordance with Standard Paragraph E at the end of this notice.

### 5. Southern Company Services, Inc.

[Docket No. ER98–3834–000]

Take notice that on July 22, 1998, Alabama Power Company (APC) and Southern Company Services, Inc. (SCS), filed a Service Agreement with the City of Hartford, Alabama under Southern Company's Market-Based Rate Tariff (FERC Electric Tariff Original Volume No. 4).

*Comment date:* August 11, 1998, in accordance with Standard Paragraph E at the end of this notice.

### 6. Southern Company Services, Inc.

[Docket No. ER98–3835–000]

Take notice that on July 22, 1998, Southern Company Services, Inc. (SCS), acting on behalf of Alabama Power Company (APC), Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Savannah Electric and Power Company (collectively referred to as Southern Company), filed a service agreement for network integration transmission service between SCS, as agent for Southern Company, and Southern Wholesale Energy, a Department of SCS, as agent for APC; five (5) service agreements for firm point-to-point transmission service between SCS, as agent for Southern Company, and (i) Sonat Power Marketing L.P., (ii) Duke Energy Trading & Marketing (Duke), (iii) LG&E Energy Marketing, (iv) Merchant Energy Group of America, and (v) Florida Power Corporation; and one (1) service agreement for non-firm point-to-point transmission service between SCS, as agent for Southern Company, and Public Service Electric and Gas Company under the Open Access Transmission Tariff of Southern Company (FERC Electric Tariff, Original Volume No. 5).

*Comment date:* August 11, 1998, in accordance with Standard Paragraph E at the end of this notice.

### 7. PacifiCorp

[Docket No. ER98–3836–000]

Take notice that PacifiCorp on July 22, 1998, tendered for filing in accordance with 18 CFR Part 35 of the Commission's Rules and Regulations, a Mutual Netting/Closeout Agreement between PacifiCorp and e prime, Inc.

Copies of this filing were supplied the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

*Comment date:* August 11, 1998, in accordance with Standard Paragraph E at the end of this notice.

### 8. Public Service Electric and Gas Company

[Docket No. ER98–3837–000]

Take notice that on July 22, 1998, Public Service Electric and Gas Company (PSE&G) of Newark, New Jersey tendered for filing an agreement for the sale of capacity and energy to American Municipal Power Ohio, Inc. (AMP-Ohio), pursuant to the PSE&G Wholesale Power Market Based Sales Tariff, presently on file with the Commission.

PSE&G further requests waiver of the Commission's Regulations such that the agreement can be made effective as of June 23, 1998.

Copies of the filing have been served upon AMP-Ohio and the New Jersey Board of Public Utilities.

*Comment date:* August 11, 1998, in accordance with Standard Paragraph E at the end of this notice.

### 9. Niagara Mohawk Power Corporation

[Docket No. ER98–3839–000]

Take notice that on July 21, 1998, Niagara Mohawk Power Corporation (NMPC), tendered for filing with the Federal Energy Regulatory Commission executed form Service Agreements between NMPC and multiple parties (Purchasers). The Service Agreements specify that the Purchasers have signed on to and have agreed to the terms and conditions of NMPC's Power Sales Tariff designated as NMPC's FERC Electric Tariff, Original Volume No. 2. This Tariff, approved by FERC on April 15, 1994, and which has an effective date of March 13, 1993, will allow NMPC and the Purchasers to enter into separately scheduled transactions under which NMPC will sell to the Purchasers

capacity and/or energy as the parties may mutually agree.

In its filing letter, NMPC also included a Certificate of Concurrence for each Purchaser.

NMPC is generally requesting an effective date of July 1, 1998, for the agreements, and requesting waiver of the Commission's notice requirements for good cause shown.

NMPC has served copies of the filing upon the New York State Public Service Commission, and the companies included in a Service List enclosed with the filing.

*Comment date:* August 11, 1998, in accordance with Standard Paragraph E at the end of this notice.

**10. Allegheny Power Service Corp., on behalf of Monongahela Power Co. The Potomac Edison Company, and West Penn Power Company (Allegheny Power)**

[Docket No. ER98–3840–000]

Take notice that on July 22, 1998, Allegheny Power Service Corporation on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power), filed Supplement No. 32, to add Northern States Power Company and Tractebel Energy Marketing, Inc., to Allegheny Power Open Access Transmission Service Tariff which has been submitted for filing by the Federal Energy Regulatory Commission in Docket No. OA96–18–000.

The proposed effective date under the Service Agreements is July 21, 1998.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, the West Virginia Public Service Commission.

*Comment date:* August 11, 1998, in accordance with Standard Paragraph E at the end of this notice.

**11. Consumers Energy Company**

[Docket No. ER98–3841–000]

Take notice that on July 22, 1998, Consumers Energy Company (Consumers), tendered for filing an executed service agreement for Non-Firm Point-to-Point Transmission Service pursuant to the Joint Open Access Transmission Service Tariff filed on December 31, 1996, by Consumers and The Detroit Edison Company (Detroit Edison), with Amoco Energy Trading Corporation.

Copies of the filed agreement were served upon the Michigan Public Service Commission, Detroit Edison and the transmission customer.

*Comment date:* August 11, 1998, in accordance with Standard Paragraph E at the end of this notice.

**12. PacifiCorp**

[Docket No. ER98–3842–000]

Take notice that on July 22, 1998, PacifiCorp, tendered for filing in accordance with 18 CFR Part 35 of the Commission's Rules and Regulations, an umbrella Service Agreement with e prime, Inc., under PacifiCorp's FERC Electric Tariff, First Revised Volume No. 12.

Copies of this filing were supplied to the Public Utility Commission of Oregon and the Washington Utilities and Transportation Commission.

*Comment date:* August 11, 1998, in accordance with Standard Paragraph E at the end of this notice.

**13. Alabama Power Company**

[Docket No. ER98–3843–000]

Take notice that on July 22, 1998, Alabama Power Company (APC), filed a revision to the Index of Purchasers to Rate Schedule MUN–1 of FERC Electric Tariff, Original Volume No. 1, of Alabama Power Company (Tariff). This revision is being made to indicate that the City of Hartford, Alabama is no longer receiving service under the Tariff.

*Comment date:* August 11, 1998, in accordance with Standard Paragraph E at the end of this notice.

**14. Southern Indiana Gas and Electric Company**

[Docket No. ER98–3844–000]

Take notice that on July 22, 1998, Southern Indiana Gas and Electric Company (SIGECO), tendered for filing summary information on transactions that occurred during the period April 1, 1998 through June 30, 1998, pursuant to its Market Based Rate Sales Tariff accepted by the Commission in Docket No. ER96-2734–000.

*Comment date:* August 11, 1998, in accordance with Standard Paragraph E at the end of this notice.

**15. Entergy Services, Inc.**

[Docket No. ER98–3845–000]

Take notice that on July 22, 1998, Entergy Services, Inc. (Entergy Services), on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc. (collectively, the Entergy Operating Companies), tendered for filing a Short-Term Market Rate Sales Agreement between Entergy Services, as agent for the Entergy Operating Companies, and NorAm Energy Services, Inc., for the sale of power under Entergy Services' Rate Schedule SP.

*Comment date:* August 11, 1998, in accordance with Standard Paragraph E at the end of this notice.

**16. Consolidated Edison Company of New York, Inc.**

[Docket No. ER98–3846–000]

Take notice that on July 22, 1998, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing a service agreement to provide firm transmission service pursuant to its Open Access Transmission Tariff to Aquila Power Corporation (Aquila).

Con Edison states that a copy of this filing has been served by mail upon Aquila.

*Comment date:* August 11, 1998, in accordance with Standard Paragraph E at the end of this notice.

**17. Consolidated Edison Company Of New York, Inc.**

[Docket No. ER98–3847–000]

Take notice that on July 22, 1998, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing a service agreement to provide non-firm transmission service pursuant to its Open Access Transmission Tariff to H.Q. Energy Services (U.S.), Inc. (HQ).

Con Edison states that a copy of this filing has been served by mail upon HQ.

*Comment date:* August 11, 1998, in accordance with Standard Paragraph E at the end of this notice.

**18. Consolidated Edison Company of New York, Inc.**

[Docket No. ER98–3849–000]

Take notice that on July 22, 1998, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing a service agreement to provide non-firm transmission service pursuant to its Open Access Transmission Tariff to Merchant Energy Group of the Americas, Inc., (Merchant).

Con Edison states that a copy of this filing has been served by mail upon Merchant.

*Comment date:* August 11, 1998, in accordance with Standard Paragraph E at the end of this notice.

**19. Consolidated Edison Company of New York, Inc.**

[Docket No. ER98–3850–000]

Take notice that on July 22, 1998, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing a service agreement to provide

firm transmission service pursuant to its Open Access Transmission Tariff to Constellation Power Source, Inc.,(CPS).

Con Edison states that a copy of this filing has been served by mail upon CPS.

*Comment date:* August 11, 1998, in accordance with Standard Paragraph E at the end of this notice.

**20. Consolidated Edison Company of New York, Inc.**

[Docket No. ER98–3851–000]

Take notice that on July 22, 1998, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing a service agreement to provide firm transmission service pursuant to its Open Access Transmission Tariff to PP&L Energy Marketing (PP&L).

Con Edison states that a copy of this filing has been served by mail upon PP&L.

*Comment date:* August 11, 1998, in accordance with Standard Paragraph E at the end of this notice.

**21. Consolidated Edison Company of New York, Inc.**

[Docket No. ER98–3852–000]

Take notice that on July 22, 1998 Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing a service agreement to provide firm transmission service pursuant to its Open Access Transmission Tariff to Aquila Power Corporation (Aquila).

Con Edison states that a copy of this filing has been served by mail upon Aquila.

Comment date: August 11, 1998, in accordance with Standard Paragraph E at the end of this notice.

**22. New England Power Pool**

[Docket No. ER98–3853–000]

Take notice that on July 22, 1998, the New England Power Pool (NEPOOL), Executive Committee filed the Thirty-Sixth Agreement Amending New England Power Pool Agreement (the Thirty-Sixth Agreement) which contains amendments (the Amendments) to the Restated NEPOOL Agreement and the NEPOOL Open Access Transmission Tariff. The NEPOOL Executive Committee states that changes made by the Amendments are presented in compliance with the Commission's April 20, 1998, order in the above-captioned dockets (the Order). NEPOOL also states that the Amendments make additional changes that were related to issues raised by the Order and for which agreement was required in order to gather sufficient support for the Thirty-Sixth Agreement to permit it to become effective under the amendment provisions of the Restated NEPOOL Agreement.

The NEPOOL Executive Committee has requested a compliance effective date of October 1, 1998, for the Thirty-Sixth Agreement and attached Amendments.

The NEPOOL Executive Committee states that copies of these materials were sent to all persons identified in the Commission's official service lists for the captioned dockets, the New England state governors and regulatory commissions, and the NEPOOL participants.

*Comment date:* August 11, 1998, in accordance with Standard Paragraph E at the end of this notice.

**23. Daniel Kirshner**

[Docket No. ID–3123–000]

Take notice that on January 26, 1998, Daniel Kirshner (Applicant) tendered for filing an application under Section 305(b) of the Federal Power Act to hold the following positions:

Governor California Independent System Operator Corporation
Governor California Power Exchange Corporation

*Comment date:* August 10, 1998, in accordance with Standard Paragraph E at the end of this notice.

**24. Jan Smutny-Jones**

[Docket No. ID–3124–000]

Take notice that on January 26, 1998, Jan Smutny-Jones (Applicant), tendered for filing an application under Section 305(b) of the Federal Power Act to hold the following positions:

Governor California Independent System Operator Corporation
Governor California Power Exchange Corporation

*Comment date:* August 10, 1998, in accordance with Standard Paragraph E at the end of this notice.

**25. Peter Florio**

[Docket No. ID–3125–000]

Take notice that on January 26, 1998, Peter Florio (Applicant) tendered for filing an application under Section 305(b) of the Federal Power Act to hold the following positions:

Governor California Independent System Operator Corporation
Governor California Power Exchange Corporation

*Comment date:* August 10, 1998, in accordance with Standard Paragraph E at the end of this notice.

**26. El Paso Electric Company**

[Docket No. OA96–200–005]

Take notice that on June 25, 1998, El Paso Electric Company (EPE), tendered for filing First Revised Sheet Nos. 143 and 144 to EPE's open access transmission tariff applicable to Energy Imbalance Service.

*Comment date:* August 10, 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, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before 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,**

*Secretary.*

[FR Doc. 98–21114 Filed 8–6–98; 8:45 am]

BILLING CODE 6717–01–P

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## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. ER98–3838–000, et al.]**

## Northern States Power Company (Minnesota Company), et al.; Electric Rate and Corporate Regulation Filings

July 28, 1998.

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

**1. Northern States Power Company (Minnesota Company) and Northern States Power Company (Wisconsin Company)**

[Docket No. ER98–3838–000]

Take notice that on July 22, 1998, Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin) (collectively known as NSP), tendered for filing a Quarterly Transaction Summary for period ending June 30, 1998.

*Comment date:* August 11, 1998, in accordance with Standard Paragraph E at the end of this notice.

**2. Consolidated Edison Company of New York, Inc.**

[Docket No. ER98–3861–000]

Take notice that on July 23, 1998, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing a service agreement to provide transmission service pursuant to its Open Access Transmission Tariff to Wheeled Electric Power Company (Customer).

Con Edison states that a copy of this filing has been served by mail upon Customer and that a copy of this filing has been served by mail upon the New York State Public Service Commission.

*Comment date:* August 12, 1998, in accordance with Standard Paragraph E at the end of this notice.

**3. Consolidated Edison Company of New York, Inc.**

[Docket No. ER98–3862–000]

Take notice that on July 23, 1998, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing a service agreement to provide transmission service pursuant to its Open Access Transmission Tariff to KeySpan Energy Services, Inc., (Customer).

Con Edison states that a copy of this filing has been served by mail upon Customer and that a copy of this filing has been served by mail upon the New York State Public Service Commission.

*Comment date:* August 12, 1998, in accordance with Standard Paragraph E at the end of this notice.

**4. Consolidated Edison Company of New York, Inc.**

[Docket No. ER98–3863–000]

Take notice that on July 23, 1998, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing a service agreement to provide transmission service pursuant to its Open Access Transmission Tariff to Northeast Energy Services, Inc., (Customer).

Con Edison states that a copy of this filing has been served by mail upon Customer and that a copy of this filing has been served by mail upon the New York State Public Service Commission.

*Comment date:* August 12, 1998, in accordance with Standard Paragraph E at the end of this notice.

**5. Consolidated Edison Company of New York, Inc.**

[Docket No. ER98–3865–000]

Take notice that on July 23, 1998 Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing a service agreement to provide transmission service pursuant to its Open Access Transmission Tariff to North American Energy Conservation, Inc., (Customer).

Con Edison states that a copy of this filing has been served by mail upon Customer and that a copy of this filing has been served by mail upon the New York State Public Service Commission.

*Comment date:* August 12, 1998, in accordance with Standard Paragraph E at the end of this notice.

**6. Consolidated Edison Company of New York, Inc.**

[Docket No. ER98–3867–000]

Take notice that on July 23, 1998 Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing a service agreement to provide transmission service pursuant to its Open Access Transmission Tariff to Econnergy Energy Company (Customer).

Con Edison states that a copy of this filing has been served by mail upon Customer and that a copy of this filing has been served by mail upon the New York State Public Service Commission.

*Comment date:* August 12, 1998, in accordance with Standard Paragraph E at the end of this notice.

**7. Consolidated Edison Company of New York, Inc.**

[Docket No. ER98–3873–000]

Take notice that on July 23, 1998, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing a service agreement to provide transmission service pursuant to its Open Access Transmission Tariff to Consolidated Edison Solutions, Inc., (Customer).

Con Edison states that a copy of this filing has been served by mail upon Customer and that a copy of this filing has been served by mail upon the New York State Public Service Commission.

*Comment date:* August 12, 1998, in accordance with Standard Paragraph E at the end of this notice.

**8. ONEOK Power Marketing Company**

[Docket No. ER98–3897–000]

Take notice that on July 23, 1998, ONEOK Power Marketing Company (OPMC), submitted for filing OPMC Rate Schedule FERC No. 1 and petitioned the Commission for (1) blanket authorization to sell electricity at market-based rates; (2) acceptance of OPMC's Rate Schedule FERC No. 1; (3) waiver of certain Commission Regulations; and (4) such other waivers and authorizations as have been granted to other power marketers, all as more fully set forth in OPMC's rate filing and petition on file with the Commission. OPMC has requested an effective date as soon as possible, but in no event later than sixty (60) days after the date of this filing.

OPMC states that it intends to engage in electric power transactions as a power marketer. In transactions where OPMC acts as a marketer, it proposes to make such sales on rates, terms and conditions to be mutually agreed to with purchasing parties. Marketing,

*Comment date:* August 12, 1998, in accordance with Standard Paragraph E at the end of this notice.

**9. Cleco Corporation**

[Docket No. ER98–3898–000]

Take notice that on July 23, 1998, Cleco Corporation, (Cleco), tendered for filing an umbrella service agreement under which Cleco will make market based power sales under its MR–1, tariff with NorAm Energy Services, Inc.

Cleco states that a copy of the filing has been served on NorAm Energy Services, Inc.

*Comment date:* August 12, 1998, in accordance with Standard Paragraph E at the end of this notice.

**10. Cleco Corporation**

[Docket No. ER98–3899–000]

Take notice that on July 23, 1998, Cleco Corporation, (Cleco), tendered for filing an umbrella service agreement under which Cleco will make market based power sales under its MR–1, tariff with Tenaska Power Services Company.

Cleco requests that the Commission accept the Service Agreement with an effective date of June 24, 1998.

Cleco states that a copy of the filing has been served on Tenaska Power Services Company.

*Comment date:* August 12, 1998, in accordance with Standard Paragraph E at the end of this notice.

**11. Wisconsin Electric Power Company**

[Docket No. ER98–3900–000]

Take notice that on July 23, 1998, Wisconsin Electric Power Company (Wisconsin Electric), tendered for filing an unexecuted electric service agreement under its Market Rate Sales Tariff (FERC Electric Tariff, Original Volume No. 8) with Enron Power Marketing (Enron). Wisconsin Electric respectfully requests an effective date of June 26, 1998, to allow for economic transactions.

Copies of the filing have been served on Enron, the Michigan Public Service Commission, and the Public Service Commission of Wisconsin.

*Comment date:* August 12, 1998, in accordance with Standard Paragraph E at the end of this notice.

**12. Panda Guadalupe Power Marketing, LLC**

[Docket No. ER98–3901–000]

Take notice that on July 23, 1998, Panda Guadalupe Power Marketing, LLC (PGPM), 4100 Spring Valley, Suite 1001, Dallas, Texas 75244, tendered for filing pursuant to Rules 205 and 207, a petition for waivers and blanket approvals under various regulations of the Commission and for an order accepting its FERC Electric Rate Schedule No. 1, to be effective May 1, 2000, for wholesale sales to customers located outside of the ERCOT region of Texas.

In such transactions where PGPM will sell electric energy and capacity at wholesale, it proposes to make such sales on rates, terms and conditions to be mutually agreed to with the purchasing party. PGPM may engage in electric energy and capacity transactions as a marketer and energy and capacity transactions as a broker.

*Comment date:* August 12, 1998, in accordance with Standard Paragraph E at the end of this notice.

**13. Panda Paris Power Marketing, LLC**

[Docket No. ER98–3902–000]

Take notice that on July 23, 1998, Panda Paris Power Marketing, LLC (PPPM), 4100 Spring Valley, Suite 1001, Dallas, Texas 75244, tendered for filing pursuant to Rules 205 and 207, a petition for waivers and blanket approvals under various regulations of the Commission and for an order accepting its FERC Electric Rate Schedule No. 1, to be effective January 1, 2000, for wholesale sales to customers located outside of the ERCOT region of Texas.

In such transactions where PPPM will sell electric energy and capacity at wholesale, it proposes to make such sales on rates, terms and conditions to be mutually agreed to with the purchasing party. PPPM may engage in electric energy and capacity transactions as a marketer and energy and capacity transactions as a broker.

*Comment date:* August 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, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before 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,**

*Secretary.*

[FR Doc. 98–21115 Filed 8–6–98; 8:45 am]

BILLING CODE 6717–01–P

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Notice of Non-Project Use of Project Lands and Waters

August 3, 1998.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Non-Project Use of Project Lands and Waters.

b. *Project Name:* Catawba-Wateree Project.

c. *Project No.:* FERC Project No. 2232–364.

d. *Date Filed:* June 8, 1998.

e. *Applicant:* Duke Power Company, a division of Duke Energy Corporation.

f. *Location:* Mecklenburg County, North Carolina, On Mountain Island Lake.

g. *Filed pursuant to:* Federal Power Act, 16 U.S.C. § 791(a)–825(r).

h. *Applicant Contact:* Mr. E.M. Oakley, Duke Energy Corporation, P.O. Box 1006 (EC12Y), Charlotte, NC 28201–1006, (704) 382–5778.

i. *FERC Contact:* Brian Romanek, (202) 219–3076.

j. *Comment Date:* September 14, 1998.

k. *Description of the filing:* Duke Energy Corporation proposes to lease to Mt. Isle Harbor Boat Slip Association, Inc. four parcels of project land containing 3.627 acres for the construction of commercial/residential marinas with a total of 130 boat slips and one boat ramp. The marinas and ramp would serve residents of Mt. Isle Harbor Subdivision.

l. This notice also consists of the following standard paragraphs: B, C1, 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'', ''PROTESTS'', 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.

**David P. Boergers,**

*Secretary.*

[FR Doc. 98–21158 Filed 8–6–98; 8:45 am]

BILLING CODE 6717–01–M

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Notice of Amendment to Shoreline Management Plan

August 3, 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 to Shoreline Management Plan.

b. *Project Name:* Catawba-Wateree Project.

c. *Project No.:* FERC Project No. 2232–365.

d. *Date Filed:* June 8, 1998.

e. *Applicant:* Duke Power Company, a division of Duke Energy Corporation.

f. *Location:* Catawba County, North Carolina, on Lake Norman.

g. *Filed pursuant to:* Federal Power Act, 16 U.S.C. § 791(a)–825(r).

h. *Applicant Contact:* Mr. E.M. Oakley, Duke Energy Corporation, P.O. Box 1006 (EC12Y), Charlotte, NC 28201–10906, (704) 382–5778.

i. *FERC Contact:* Brian Romanek, (202) 219–3076.

j. *Comment Date:* September 4, 1998.

k. *Description of the filing:* Duke Energy Corporation (Duke) proposes to amend the Shoreline Management Plan (SMP) for the Catawba Wateree Project. Specifically, Duke proposes to make recreational enhancements approved for the existing Long Island Site at an alternate site. The 28 acre alternate site is located near the existing Long Island Site. At the alternate site, Duke proposes to install two new concrete boat ramps and one floating loading pier, and to provide 50 paved parking spaces. The existing site would then be closed. The SMP classifies the shoreline of the alternate site as ''Future Commercial/Residential'', thus Duke proposes to reclassify the shoreline to ''Recreational''. Duke also proposes to reclassify the existing site to ''Future Commercial Residential''.

l. This notice also consists of the following Standard paragraphs: B, C1, 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 any 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.

**David P. Boergers,**

*Secretary.*

[FR Doc. 98–21159 Filed 8–6–98; 8:45 am]

BILLING CODE 6717–01–M

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## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

## Notice of Amendment to Shoreline Management Plan

August 3, 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 to Shoreline Management Plan.

b. *Project Name:* Catawba-Wateree Project.

c. *Project No.:* FERC Project No. 2232–366.

d. *Date Filed:* May 27, 1998.

e. *Applicant:* Duke Power Company, a division of Duke Energy Corporation.

f. *Location:* Caldwell County, North Carolina, On Lake Rhodhiss.

g. *Filed pursuant to:* Federal Power Act, 16 U.S.C. § 791(a)–825(r).

h. *Applicant Contact:* Mr. E.M. Oakley, Duke Energy Corporation, P.O. Box 1006 (EC12Y), Charlotte, NC 28201–1006, (704) 382–5778.

i. *FERC Contact:* Brian Romanek, (202) 219–3076.

j. *Comment Date:* September 4, 1998.

k. *Description of the filing:* Duke Energy Corporation (Duke) proposes to amend the Shoreline Management Plan (SMP) for the Catawba Wateree Project. Specifically, Duke proposes to expand the existing Castle Bridge Access Area (DBAA) on Lake Rhodhiss by purchasing a 44.483 acre parcel adjacent to the CBAA rather than develop a smaller adjoining parcel approved in the SMP. Duke would acquire the larger parcel and make the approved recreational enhancements on the new parcel. The total size of the CBAA would be 47.7 acres rather than the 5 acre site required by the SMP. The enhancements include six concrete boat ramps (removing the existing two-lane ramp), three floating loading piers and 150 paved, parking spaces.

l. This notice also consists of the following standard paragraphs: B, C1, 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 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.

**David P. Boergers,**

*Secretary.*

[FR Doc. 98–21160 Filed 8–6–98; 8:45 am]

BILLING CODE 6717–01–M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Notice of Non-Project Use of Project Lands and Waters

August 3, 1998

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Non-Project Use of Project Lands and Waters.

b. *Project Name:* Catawba-Wateree Project.

c. *Project No.:* FERC Project No. 2232–367.

d. *Date Filed:* July 8, 1998.

e. *Applicant:* Duke Power Company, a Division of Duke Energy Corporation.

f. *Location:* Lincoln County, North Carolina, On Lake Norman.

g. *Filed pursuant to:* Federal Power Act, 16 U.S.C. § 791(a)–825(r).

h. *Applicant Contact:* Mr. E.M. Oakley, Duke Energy Corporation, P.O. Box 1006 (EC12Y), Charlotte, NC 28201–1006, (704) 382–5778.

i. *FERC Contact:* Brian Romanek, (202) 219–3076.

j. *Comment Date:* September 14, 1998.

k. *Description of the Filing:* Duke Energy Corporation proposes to lease to Ashley Cove Homeowners Association, Inc. (Ashley Cove) a 0.682 acre parcel of project land for the construction of a commercial/residential marina with a total of 28 boat slips on Lake Norman. Duke also proposes to allow Ashley Cove to remove about 4,000 cubic yards of accumulated sediment from the lake bottom within this leased area to accommodate boat navigation. The marina would provide access to the reservoir for residents of Ashley Cove Subdivision.

l. This notice also consists of the following standard paragraphs: B, C1, 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.

**David P. Boergers,**

*Secretary.*

[FR Doc. 98–21161 Filed 8–6–98; 8:45 am]

BILLING CODE 6717–01–M

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Notice of Non-Project Use of Project Lands and Waters

August 3, 1998.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Non-Project Use of Project Lands and Waters.

b. *Project Name:* Catawba-Wateree Project.

c. *Project No.:* FERC Project No. 2232–368.

d. *Date Filed:* July 8, 1998.

e. *Applicant:* Duke Power Company, a division of Duke Energy Corporation.

f. *Location:* Burke County, North Carolina, On Lake James.

g. *Filed pursuant to:* Federal Power Act, 16 U.S.C. § 791(a)–825(r).

h. *Applicant Contact:* Mr. E.M. Oakley, Duke Energy Corporation, P.O. Box 1006 (EC12Y), Charlotte, NC 28201–1006, (704) 382–5778.

i. *FERC Contact:* Brian Romanek, (202) 219–3076.

j. *Comment Date:* September 14, 1998.

k. *Description of the filing:* Duke Energy Corporation proposes to lease to SouthPointe Homeowners Association, Inc. two parcels of project land containing 3.05 acres for the construction of commercial/residential marinas with a total of 132 boat slips. The marinas would serve residents of SouthPointe Subdivision.

l. This notice also consists of the following standard paragraphs: B, C1, 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.

**David P. Boergers,**

*Secretary.*

[FR Doc. 98–21162 Filed 8–6–98; 8:45 am]

BILLING CODE 6717–01–M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Notice of Non-Project Use of Project Lands and Waters

August 3, 1998.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Non-Project use of Project Lands and Waters.

b. *Project Name:* Catawba-Wateree Project.

c. *Project No.:* FERC Project No. 2232–369.

d. *Date Filed:* July 13, 1998.

e. *Applicant:* Duke Power Company, a division of Duke Energy Corporation.

f. *Location:* Catawba County, North Carolina, On Lake Norman.

g. *Filed pursuant to:* Federal Power Act, 16 U.S.C. § 791(a)–825(r).

h. *Applicant Contact:* Mr. E.M. Oakley, Duke Energy Corporation, P.O. Box 1006 (EC12Y), Charlotte, NC 28201–1006, (704) 383–5778.

i. *FERC Contact:* Brian Romanek, (202) 219–3076.

j. *Comment Date:* September 14, 1998.

k. *Description of the filing:* Duke Energy Corporation proposes to lease to LakePointe South Homeowners Association, Inc. a parcel of project land containing 0.48 acres for the construction of a commercial/residential marina and boat ramp with a total of 14 boat slips. The marina and ramp would provide access to the reservoir for the residents of LakePointe south Subdivision.

l. This notice also consists of the following standard paragraphs: B, C1, 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, NE., Washington, DC 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.

**David P. Boergers,**

*Secretary.*

[FR Doc. 98–21163 Filed 8–6–98; 8:45 am]

BILLING CODE 6712–01–M

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–6139–7]**

### Agency Information Collection Activities: Proposed Collection Comment Request; Motor Vehicle Exclusion Determination

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

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that EPA is planning to submit the following continuing Information Collection Request (ICR) for renewal to the Office of Management and Budget (OMB) for review and approval: Motor Vehicle Exclusion Determination, OMB Control Number 2060–0012.9, Previous OMB Control Number 2060-0124, expiration date 7/31/98. 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 October 6, 1998.

**ADDRESSES:** Vehicle Programs & Compliance Division (6405J), 401 M Street, SW, Washington, D.C. 20460. Interested persons may request a copy of this ICR, without charge, by writing, facing, or phoning the contact person below.

**FOR FURTHER INFORMATION OR A COPY:** Chestine Payton, Office of Mobile Sources, Vehicle Programs & Compliance Division, (202) 564–9328, (202) 565–2057 (fax), E-mail address: payton.chestine@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:** *Affected Entities:* Entities potentially affected by this action are manufacturers of vehicles and importers of racing vehicles.

*Title:* Motor Vehicle Exclusion Determination, OMB Control Number 2060–0012.9, Previous OMB Control Number 2060–0124, expiration date 07/31/98. This is a request for an extension of a currently approved collection.

*Abstract:* The EPA Office of Mobile Sources determines whether a vehicle is excluded from requirements under the Clean Air Act (Act) based on the criteria listed in 40 CFR 85.1701—Exclusion and Exemption of Motor Vehicles and Motor Vehicle Engines. A manufacturer who desires a determination by the EPA as to whether a particular type of vehicle is excluded from coverage under the Act must submit specifications describing the size, use, top speed, etc. of the vehicle so that the determination can be made. This ensures that motor vehicles which may be legally operated or are capable of being legally operated on streets or highways will not be imported under a racing vehicle exclusion. EPA implemented a rule that requires each person who seeks to import a racing vehicle to obtain a prior written approval for admission, if we believe that the vehicle meets one or more of the motor vehicle exclusion criteria listed under 40 CFR 85.1703.

EPA would like to solicit comments to:

(i) evaluate whether the proposed collection 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 the appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

*Burden Statement:* The annual burden for this collection of information is estimated to average fourteen work weeks of professional effort at $840 per week, and seven work weeks of clerical support at $360 per week for the government. Approximately 210 requests may be made annually with an average of one hour spent on each request by both entities. The total costs are attributed to labor hours and overhead since there is no capital investment required for this collection of information. 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 instruction; 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 instruction and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection information; and transmit or otherwise disclose the information.

Dated: August 3, 1998.

**Robert Perciasepe,**

*Assistant Administrator for Air and Radiation.*

[FR Doc. 98–21210 Filed 8–6–98; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–6139–8]**

## Agency Information Collection Activities: Comment Request Up for Renewal

**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): EPA Worker Protection Standard for Hazardous Waste Operations and Emergency Response, EPA ICR #1426.03, OMB Control #2050–0105, Expiration 1/31/99. Before submitting ICR to OMB and Budget (OMB) for review and approval, EPA is soliciting comments on specific aspects of the collection as described below.

**DATES:** Comments must be submitted on or before October 3, 1998.

**ADDRESSES:** Office of Solid Waste and Emergency Response, 401 M. Street, SW, MS 5101, Washington, DC 20460.

Remit Comments to: Sella M. Burchette, S EPA/ERT, 2890 Woodbridge Ave., Blg 18, MS 101, Edison, NJ 08837–3679.

To obtain a copy at no charge, please contact Sella Burchette at (732) 321–6726/FAX: (732) 321–6724/or electronically at burchette.sella@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:**

*Affected entities:* Entities affected by this action are those State and local employees engaged in hazardous waste operations and emergency response in the 27 States that do not have Occupational Safety and Health Administration (OSHA) approved State plans.

*Title:* EPA Worker Protection Standard for Hazardous Waste Operations and Emergency Response, EPA ICR #1426.03, OMB Control #2050–0105, Expiration 1–31–99. This is a request for renewal, without change, of a currently approved collection.

*Abstract:* Section 126 (f) of the Superfund Amendments and Reauthorization Act of 1986 (SARA) require EPA to set worker protection standards for State and local employees engaged in hazardous waste operations and emergency response in the 27 States that do not have Occupational Safety and Health Administration approved State plans. The EPA coverage, required to be identical to the OSHA standards, extends to three categories of employees: those in clean-ups at uncontrolled hazardous waste sites, including corrective actions at Treatment, Storage and Disposal (TSD) facilities regulated under the Resource Conservation and Recovery Act (RCRA); employees working at routine hazardous waste operations at RCRA TSD facilities; and employees involved in emergency response operations without regard to location. This ICR renews the existing mandatory recordkeeping collection of ongoing activities including monitoring of any potential employee exposure at uncontrolled hazardous waste site, maintaining records of employee training, refresher training, medical exams, and reviewing emergency response plans.

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 estimates of the burden of the proposed collection of information;

(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 though the use of appropriate automated electronic, mechanical, or other technology collection techniques or other forms of information technology, e.g. permitting electronic submission of responses.

*Burden Statement:* The annual recordkeeping burden for this collection is estimated to average 10.64 hours per site or event. The estimated number of respondents is approximated at 100 RCRA regulated TSD facilities or uncontrolled hazardous waste sites; 23,900 State and local police departments, fire departments or hazardous materials response teams. The estimated total burden hours on respondents: 255,427. The frequency of collection: continuous maintenance or records.

Send comments regarding these matters, or any other aspect of the information collection, including suggestions for reducing the burden, to the address listed above.

Dated: July 30, 1998.

**Larry Reed,**

*Acting Office Director, Office of Emergency and Remedial Response.*

[FR Doc. 98–21211 Filed 8–6–98; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

**[ER–FRL–5494–3]**

## Environmental Impact Statements; Notice of Availability

**RESPONSIBLE AGENCY:** Office of Federal Activities, General Information (202) 564–7167 OR (202) 564–7153.

Weekly receipt of Environmental Impact Statements, Filed July 27, 1998 Through July 31, 1998, Pursuant to 40 CFR 1506.9.

EIS No. 980287, DRAFT EIS, COE, CA, Los Angeles County Drainage Area

(LACDA) Water Conservation and Supply and Santa Fe-Whittier Narrows Dams Feasibility Study, Implementation, Los Angeles County, CA, Due: September 21, 1998, Contact: Ms. Debbie Lamb (213) 452–3798.

EIS No. 980288, FINAL EIS, AFS, CA, Eight Eastside Rivers, Wild and Scenic River Study, Suitability or Nonsuitability, Tahoe National Forest and Lake Tahoe Management Unit, Land and Resource Management Plans, Alpine, El Dorado, Placer, Nevada and Sierra Counties, CA, Due: September 8, 1998, Contact: Phil Horning (530) 478–6210.

EIS No. 980289, FINAL EIS, FHW, TX, Loop 49 Southern Section Construction, TX–155 to TX–110, Funding, Tyler, Smith County, TX, Due: September 8, 1998, Contact: Walter C. Waidelich (512) 916–5988.

EIS No. 980290, DRAFT EIS, NPS, CA, Redwood National and State Parks General Management Plan, Implementation, Humboldt and Del Norte Counties, CA, Due: October 9, 1998, Contact: Alan Schmierer (414) 427–1441.

EIS No. 980291, DRAFT EIS, FHW, MN, TH–23 Reconstruction, MN-TH–22 in Richmond extending through the Cities of Richmond, Cold Spring and Rockville to I–94, Funding, Stearns County, MN, Due: September 22, 1998, Contact: Cheryl Martin (612) 291–6120.

EIS No. 980292, DRAFT EIS, FHW, MO, MO–63 Corridor Project, Transportation Improvement extending from south of the Phelps/Maries County Line and South of Route W near Vida, Funding and COE Section 404 Permit, City of Rolla, Phelps and Maries Counties, MO, Due: October 3, 1998, Contact: Don Neumann (573) 636–7104.

EIS No. 980293, FINAL EIS, FHW, TN, Shelby Avenue/Demonbreum Street Corridor, from I–65 North to I–40 West in Downtown Nashville, Funding, U.S. Coast Guard Permit and COE Section 404 Permit, Davidson County, TN, Due: September 8, 1998, Contact: James E. Scapellato (615) 736–5394.

EIS No. 980294, DRAFT EIS, NOA, MN, Minnesota's Lake Superior Costal Program, Approval and Implementation, St. Louis and Cook Counties, MN, Due: September 21, 1998, Contact: Joseph A. Uravitch (301) 713–3155.

EIS No. 980295, DRAFT EIS, BLM, WY, Carbon Basin Coal Project Area, Coal Lease Application for Elk Mountain/Saddleback Hills, Carbon County, WY, Due: October 6, 1998, Contact: Jon Johnson (307) 775–6116.

EIS No. 980296, FINAL EIS, BLM, AK, Northeast National Petroleum Reserve-Alaska (NPR-A), Integrate Activity Plan, Multiple-Use Management, for Land within the North Slope Borough, AK, Due: September 8, 1998, Contact: Gene Terland (907) 271–3344.

EIS No. 980297, FINAL SUPPLEMENT, AFS, MT, Helena National Forest and Elkhorn Mountain portion of the Deerlodge National Forest Land and Resource Management Plan, Updated Information on Oil and Gas Leasing, Implementation several counties, MT, Due: September 08, 1998, Contact: Tom Andersen (Ext 277) (406) 446–5201.

EIS No. 980298, FINAL EIS, COE, CA, Montezuma Wetlands Project, Use of Cover and Non-cover Dredged Materials to restore Wetland, Implementation, Conditional-Use-Permit, NPDES and COE Section 10 and 404 Permit, Suisum Marsh in Collinsville, Solano County, CA, Due: September 08, 1998, Contact: Liz Varnhagen (415) 977–8451.

EIS No. 980299, FINAL EIS, USA, MD, Aberdeen Proving Ground, Pilot Testing of Neutralization/Biotreatment of Mustard Agent (HD), Design, Construction and Operation, NPDES and COE Section 404 Permit, Harford County, MD, Due: September 08, 1998, Contact: Mr. Matt Hurlburt (410) 612–7027.

EIS No. 980300, DRAFT EIS, COE, AR, Grand Prairie Area Demonstration Project, Implementation, Water Conservation, Groundwater Management and Irrigation Water Supply, Prairie, Arkansas, Monroe and Lonoke Counties, AR, Due: September 21, 1998, Contact: Edward P. Lambert (901) 544–0707.

Amended Notices

EIS No. 980267, DRAFT EIS, DOE, CA, NM, TX, ID, SC, WA, Surplus Plutonium Disposition (DOE/EIS–0283) for Siting, Construction and Operation of three facilities for Plutonium Disposition, Possible Sites Hanford, Idaho National Engineering and Environmental Laboratory, Pantex Plant and Savannah River, CA, ID, NM, SC, TX and WA, Due: September 16, 1998, Contact: G. Bert Stevenson (202) 586–5368. The DOE granted a 60-Day review period for the above project.

EIS No. 980269, DRAFT EIS, AFS, ID, Eagle Bird Project Area, Timber Harvesting and Road Construction, Idaho Panhandle National Forests, St. Joe Ranger District, Shoshone County, ID, Due: September 07, 1998, Contact: Cameo Flood (208) 245–4517. Published FR–07–24–98—Due Date Correction.

Dated: August 4, 1998.

**Joseph C. Montgomery,**

*Environmental Specialist, Office of Federal Activities.*

[FR Doc. 98–21235 Filed 8–7–98; 8:45 am]

BILLING CODE 6560–50–U

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## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–6139–5]**

## Notice of Proposed CERCLA Section 122(h)(1) Administrative Cost Recovery Settlement

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

**ACTION:** Proposal of CERCLA section 106 abatement action and section 122(h)(1) administrative cost recovery settlement for the Cecil's Transmission Repair site.

**SUMMARY:** U.S. EPA proposes to address the potential liability of Buhl and Laura Smith (''Settling Parties'') under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (''CERCLA''), 42 U.S.C. 9601 *et seq.*, by providing for performance of removal actions to abate an imminent and substantial endangerment to the public health, welfare or the environment resulting from the actual or threatened release of hazardous substances at or from the Cecil's Transmission Repair Site (''the Site''), located at 197 and 209 Collier Road, Doylestown, Wayne County, Ohio. U.S. EPA proposes to address the potential liability of the Settling Parties by execution of a CERCLA section 122(h)(1) Administrative Order on Consent (''AOC''), prepared pursuant to 42 U.S.C. 9622(h)(1). The key terms and conditions of the AOC may be briefly summarized as follows: (1) The Settling Parties agree to remove and dispose of all hazardous waste located on the portion of the Site they own, including drums; (2) U.S. EPA provides the Settling Parties a covenant not to sue for recovery of response costs (past and oversight costs) pursuant to section 107(a) of CERCLA, 42 U.S.C. 9607(a), and contribution protection as provided by CERCLA sections 113(f)(2) and 122(h)(4), 42 U.S.C. 9613(f)(2) and 9622(h)(4), conditioned upon satisfactory completion of obligations under the AOC. The Site is not on the NPL, and no further response activities at the Site are anticipated at this time. The total response costs connected with

the Site are not expected to approach or exceed $500,000. The AOC was signed by the Director, Superfund Division, U.S. EPA, Region V, on May 29, 1997.

**DATES:** Written comments on the proposed AOC must be received by U.S. EPA on or before September 8, 1998.

**ADDRESSES:** The proposed settlement and the Agency's response to any comments received will be available for public inspection at U.S. EPA Records Center, Room 714, 77 West Jackson Boulevard, Chicago, Illinois 60604. A copy of the proposed settlement may be obtained from U.S. EPA Office of Regional Counsel, 77 West Jackson Boulevard, Chicago, Illinois 60604. Comments should reference the Cecil's Transmission Repair Site, Doylestown, Ohio, and EPA Docket No. V–W–97–C–408, and should be addressed to Ms. Hedi Bogda-Cleveland, U.S. EPA Office of Regional Counsel, 77 West Jackson Boulevard, Chicago, Illinois 60604.

**FOR FURTHER INFORMATION CONTACT:** Ms. Hedi Bogda-Cleveland of the U.S. EPA Region 5 Office of Regional Counsel, at (312) 886–5825.

**T. Leverett Nelson,**

*Acting Chief, Multi-Media Branch I, Office of Regional Counsel, Region 5.*

[FR Doc. 98–21204 Filed 8–6–98; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL 6139–4]**

### Proposed CERCLA Administrative De Minimis Settlement; Waste, Inc.

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

**ACTION:** Notice; request for public comment.

**SUMMARY:** In accordance with section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (''CERCLA''), 42 U.S.C. 9622(i), notification is hereby given of a proposed administrative de minimis settlement concerning the Waste, Inc. Superfund site in Michigan City, Indiana, with 37 settling parties. The settlement is designed to resolve fully each settling party's liability at the site through a covenant not to sue under sections 106 and 107 of CERCLA, 42 U.S.C. 9606 and 9607, and section 7003 of the Resource Conservation and Recovery Act, 42 U.S.C. 6973. The 37 settling parties will pay a total of approximately $610,000 into a Waste, Inc. Special Account within the EPA Hazardous Substances Superfund and shall be used to finance the response action being implemented by the major PRPs under a Unilateral Order for the Site. For thirty (30) days following the date of publication of this document, the Agency will receive written comments relating to the settlement. The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate. The Agency's response to any comments received will be available for public inspection at:

Michigan City Public Library, 100 E. 4th Street, Michigan City, Indiana

and

U.S. Environmental Protection Agency, Region 5 Records Center, 77 West Jackson Boulevard (7–HJ), Chicago, IL 60604, TEL: (312) 886–0990, Mon-Fri: 7:30 a.m.–5:00 p.m.

Commenters may request an opportunity for a public meeting in the affected area in accordance with section 7003(d) of RCRA, 42 U.S.C. 6973(d).

**DATES:** Comments must be submitted on or before September 8, 1998.

**ADDRESSES:** The proposed settlement and additional background information relating to the settlement are available for public inspection at:

Michigan City Public Library, 100 E. 4th Street, Michigan City, Indiana

La Porte County Health Department, 104 Brinckmann Avenue, Michigan City, Indiana.

Bethany Baptist Church, 215 Miller Street, Michigan City, Indiana

and

U.S. Environmental Protection Agency, Region 5 Records Center, 77 West Jackson Boulevard (7–HJ), Chicago, IL 60604, TEL: (312) 886–0900, Mon-Fri: 7:30–5:00 p.m.

A copy of the proposed settlement may be obtained from John Tielsch, Assistant Regional Counsel, 77 W. Jackson Blvd., Chicago, Illinois 60604, Mail Code C–14J, 312/353–7447.

Comments should reference the Waste, Inc. site, Michigan City, Indiana, and EPA Docket No. V–W–98–C–439 and should be addressed to: Sonja Brooks, Regional Hearing Clerk, U.S. Environmental Protection Agency, Mail Code R–19J, 77 W. Jackson Blvd., Chicago, Illinois 60604.

**FOR FURTHER INFORMATION CONTACT:** John H. Tielsch, Assistant Regional Counsel, United States Environmental Protection Agency, Region 5, 77 W. Jackson Blvd., Chicago, Illinois 60604, Mail Code C–14J, 312/353–7447.

**William E. Muno,**

*Director, Superfund Division.*

[FR Doc. 98–21209 Filed 8–6–98; 8:45 am]

BILLING CODE 6560–50–M

## FARM CREDIT ADMINISTRATION

### Sunshine Act Meeting, Farm Credit Administration Board; Special Meeting

**AGENCY:** Farm Credit Administration.

**SUMMARY:** Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), of the special meeting of the Farm Credit Administration Board (Board).

**DATE AND TIME:** The special meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on August 11, 1998 from 9:00 a.m. until such time as the Board concludes its business.

**FOR FURTHER INFORMATION CONTACT:** Floyd Fithian, Secretary to the Farm Credit Administration Board, (703) 883–4025, TDD (703) 883–4444.

**ADDRESS:** Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

**SUPPLEMENTARY INFORMATION:** Parts of this meeting of the Board will be open to the public (limited space available), and parts will be closed to the public. In order to increase the accessibility to Board meetings, persons requiring assistance should make arrangements in advance. The matters to be considered at the meeting are:

*Open Session*

A. *Approval of Minutes*

B. *Report*

C. *New Business—Regulations*

1. Bank Director Compensation [12 CFR Parts 611 and 620] (Proposed Rule)
2. Regulatory Burden Notice of Intent [12 CFR Chapter VI]

*Closed Session* [1]

D. *Report*

1. OSMO Report

Date: August 5, 1998.

**Floyd Fithian,**

*Secretary, Farm Credit Administration Board.*

[FR Doc. 98–21370 Filed 8–5–98; 3:48 pm]

BILLING CODE 6705–01–P

[1] Session closed exempt pursuant to 5 U.S.C. 552b(c),(8), and (9).

## FEDERAL COMMUNICATIONS COMMISSION

### Notice of Public Information Collection(s) being Reviewed by the Federal Communications Commission

**July 30, 1998**

**SUMMARY:** The Federal Communications Commissions, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

**DATES:** Persons wishing to comment on this information collection should submit comments October 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 Les Smith, Federal Communications Commissions, Room 234, 1919 M St., NW., Washington, DC 20554 or via internet to lesmith@fcc.gov.

**FOR FURTHER INFORMATION CONTACT:** For additional information or copies of the information collections contact Les Smith at 202–418–0217 or via internet at lesmith@fcc.gov.

**SUPPLEMENTARY INFORMATION:**

*OMB Approval Number*: 3060–0541.

*Title*: Transmittal Sheet for Phase 2 Cellular Applications for Unserved Areas.

*Form Number:* FCC 464–A.

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

*Respondents*: Businesses or other for-profit entities; Small businesses or organizations.

*Number of Respondents*: 600.

*Estimated Time Per Response*: 10 minutes (0.166 hours).

*Frequency of Response:* On occasion reporting requirements.

*Total Annual Burden*: 100 hours.

*Estimated Cost To Respondents:* $0.

*Needs and Uses*: The information collected will be used by the Commission to determine whether the applicant is qualified legally, technically, and financially to be licensed as a cellular operator. Without such information, the Commission could not determine whether to issue licenses to the applicants that provide telecommunication services to the public and therefore fulfill its statutory responsibilities in accordance with the Communications Act of 1934, as amended. The transmittal sheet, filed in conjunction with FCC Form 600, facilitates application intake and other processing functions. The applicant must certify on the form that the application is complete in every respect and contains all the information required by the Commission's cellular rules. The data collected are required by the Communications Act of 1934, as amended and Commission Rules 22.105.

The form has been revised to delete the payment information previously required. Any payment to the FCC now requires the filing of a Fee Remittance Advice, FCC Form 159, which duplicates this information. Additionally, we have re-evaluated the number of receipts which reflects a significant decrease from 10,000 to 600 respondents. This is attributed to the majority of the cellular market being filled and applications being filed relate to maintenance of those licenses. The burden per respondent remains at 10 minutes, making the total annual burden an estimated 100 hours.

*OMB Approval Number*: 3060–0054.

*Title*: Application for Exemption From Ship Station Requirements.

*Form Number:* FCC 820.

*Type of Review*: Revision to a currently approved collection.

*Respondents*: Businesses or other for-profit entities; Small businesses or organizations; Individuals or households.

*Number of Respondents*: 200.

*Estimated Time Per Response*: 1 hour and 10 minutes (1.166 hours).

*Frequency of Response*: On occasion reporting requirements.

*Total Annual Burden*: 233 hours.

*Estimated Cost to Respondents:* $0.

*Needs and Uses*: FCC Rules require this collection of information when exemptions from radio provisions of statute, treaty or international agreement are requested. The data are used by examiners to determine the applicants qualifications for the requested exemption.

The data collected are required by the Communications Act of 1934, as amended; International Treaties and FCC Rules 47 CFR 1.922, 80.19 and 80.59.

This form is being revised to delete the payment information previously required. Any payment to the FCC must be accompanied by a Fee Remittance Advice, FCC Form 159, which duplicates this information. We have added a space for the applicant to provide an E-Mail address where the Commission can send E-Mail regarding the application. Instructions have been updated to reflect current mailing address and phone information for the Commission.

Federal Communications Commission.

**Magalie Roman Salas,**

*Secretary.*

[FR Doc. 98–21086 Filed 8–6–98; 8:45 am]

BILLING CODE 6712–01–F

## FEDERAL EMERGENCY MANAGEMENT AGENCY

### Open Meeting of the Federal Interagency Committee on Emergency Medical Services (FICEMS).

**AGENCY:** Federal Emergency Management Agency (FEMA).

**ACTION:** Notice of open meeting.

**SUMMARY:** FEMA announces the following open meeting.

*Name:* Federal Interagency Committee on Emergency Medical Services (FICEMS).

*Date of Meeting:* September 3, 1998.

*Place:* United States Department of Transportation Headquarters, 400 Seventh Street S.W., room 8236–40, Washington, DC 20590.

*Time:* 10:00 a.m.

*Proposed Agenda:* Review and submission for approval of previous FICEMS Committee Meeting Minutes; Ambulance Design Subcommittee and Technology Subcommittee Reports; presentation of member agency reports; reports of other Interested parties.

**SUPPLEMENTARY INFORMATION:** This meeting will be open to the public with limited seating available on a first-come, first-served basis. Members of the general public who plan to attend the meeting should contact William Troup, United States Fire Administration, 16825 South Seton Avenue,

Emmitsburg, Maryland 21727, (telephone) (301) 447–1231, (e-mail) bill.troup@fema.gov, on or before Monday, August 31, 1998.

Minutes of the meeting will be prepared and will be available upon request 30 days after they have been approved at the next FICEMS Committee Meeting on December 3, 1998.

Dated: July 31, 1998.

**Carrye B. Brown,**

*U.S. Fire Administrator.*

[FR Doc. 98–21192 Filed 8–6–98; 8:45 am]

BILLING CODE 6717–08–P

## FEDERAL HOUSING FINANCE BOARD

**[No. 98–N–6]**

### Federal Home Loan Banks' Mortgage Partnership Finance Pilot Programs

**AGENCY:** Federal Housing Finance Board.

**ACTION:** Notice and opportunity for comment.

**SUMMARY:** In December 1996, the Federal Housing Finance Board (Finance Board) authorized the Federal Home Loan Bank (FHLBank) of Chicago to establish a pilot program, called ''Mortgage Partnership Finance'' (MPF), under which the FHLBank of Chicago may purchase from, or fund through, participating member institutions up to $750 million of one-to-four family residential mortgage loans originated by such members. MPF allocates the individual risk components associated with home mortgage lending between the FHLBank and its members in a manner that uses the cooperative structure of the FHLBank System to maximize their respective core competencies. *See* 62 FR 5828, 5830–31 (Feb. 7, 1997) (describing in detail the MPF program). There has been a strong and increasing level of demand for MPF from members of the FHLBank of Chicago during the year that the pilot program has been in operation.

Several other FHLBanks have indicated interest in seeking Finance Board approval to offer pilot MPF programs to their members. Accordingly, Finance Board staff currently is preparing recommendations for the Board of Directors of the Finance Board regarding the establishment of terms and conditions pursuant to which any FHLBank may be permitted to offer MPF to its members on a pilot basis and under which the $750 million cap on MPF may be modified. Specifically, staff is considering the establishment of terms and conditions regarding: national or regional pricing; FHLBank capital requirements or other standards to manage the credit risk that may arise in conjunction with the larger volumes of MPF product that could result from an expansion of the program; the capacity of the existing MPF system to handle larger volumes of transactions; the degree to which MPF should be targeted to, or have performance goals established with respect to, particular populations or areas; and the criteria by which the success of the program will be evaluated. In addition, staff is contemplating recommending that the Board of Directors of the Finance Board modify the existing MPF dollar cap to meet member demand and to facilitate adding other FHLBanks to the program on a pilot basis. As part of these efforts, and consistent with its published Policy and Procedures for Pilot Proposals (Pilot Procedures), *see* 62 FR 63178 (Nov. 26, 1997), Finance Board staff is hereby giving notice of impending Finance Board action and offering an opportunity for public comment regarding the establishment of approval procedures and criteria, terms and conditions for pilot program operation, and modifications to the dollar limit on FHLBank System-wide MPF investments. Pursuant to the Pilot Procedures, the Board of Directors of the Finance Board will not act on these matters earlier than 30 days from the date of publication of this Notice.

Finance Board staff is not contemplating a recommendation that the MPF program be authorized to move beyond the pilot phase at this time. Staff anticipates recommending to the Board of Directors of the Finance Board that the FHLBank of Chicago and other FHLBanks that may gain approval to offer MPF to their members should continue to be monitored and evaluated by the Finance Board for compliance of MPF programs with the pilot program criteria set forth in section II.B.12 of the Finance Board's Financial Management Policy for the FHLBanks and with any other criteria that may be established pursuant to the action of the Board of Directors of the Finance Board.

**ADDRESSES:** Mail comments to Elaine L. Baker, Executive Secretary, Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006. Comments will be available for inspection at this address.

**FOR FURTHER INFORMATION CONTACT:** Scott L. Smith, Deputy Director, Program Development Division, Office of Policy, (202) 408–2991, Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006.

**William W. Ginsberg,**

*Managing Director.*

[FR Doc. 98–21118 Filed 8–6–98; 8:45 am]

BILLING CODE 6725–01–P

## FEDERAL MARITIME COMMISSION

### Sunshine Act Meeting

**TIME AND DATES:** 10:00 a.m.—August 12, 1998.

**PLACE:** 800 North Capitol Street, N.W.—Room 904, Washington, D.C.

**STATUS:** Closed.

**MATTER(S) TO BE CONSIDERED:** 1. Shipping Restrictions in the U.S.-China Trade.

**CONTACT PERSON FOR MORE INFORMATION:** Joseph C. Polking, Secretary, (202) 523–5725.

**Joseph C. Polking,**

*Secretary.*

[FR Doc. 98–21293 Filed 8–5–98; 11:07 am]

BILLING CODE 6730–01–M

## FEDERAL RESERVE SYSTEM

### Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than August 21, 1998.

**A. Federal Reserve Bank of Chicago** (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

*1. Karl William Knock*, Creston, Iowa; to acquire additonal voting shares of Union-Adams Bancorp., Creston, Iowa, and thereby indirectly acquire Iowa State Savings Bank, Creston, Iowa.

Board of Governors of the Federal Reserve System, August 3, 1998.

**Robert deV. Frierson,**

*Associate Secretary of the Board.*

[FR Doc. 98–21142 Filed 8–6–98; 8:45 am]

BILLING CODE 6210–01–F

## FEDERAL RESERVE SYSTEM

### Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than August 24, 1998.

**A. Federal Reserve Bank of Kansas City** (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

*1. Roy G. and Gloria B. Dinsdale,* Palmer, Nebraska; to acquire voting shares of Dinsdale Brothers, Inc., Palmer, Nebraska, and thereby indirectly acquire voting shares of First Security Bank, Mitchell, Nebraska, and First National Bank of Wisner, Wisner, Nebraska.

**B. Federal Reserve Bank of Dallas** (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

*1. Henry A. Taliaferro, Jr.; Henry A. Taliaferro, Sr.; Joseph Harold Davis; Joseph M. Davis; Timothy S. Davis; and Wedon Temple Smith*; all of Jonesville, Louisiana, and Aubrey Ballard Chisum, Sicily Island, Louisiana; all to retain voting shares of Catahoula Holding Company, Jonesville, Louisiana, and thereby indirectly retain voting shares of Catahoula-LaSalle Bank, Jonesville, Louisiana.

Board of Governors of the Federal Reserve System, August 4, 1998.

**Robert deV. Frierson,**

*Associate Secretary of the Board.*

[FR Doc. 98–21199 Filed 8–6–98; 8:45 am]

BILLING CODE 6210–01–F

## FEDERAL RESERVE SYSTEM

### Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 3, 1998.

**A. Federal Reserve Bank of Richmond** (A. Linwood Gill III, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261-4528:

*1. Union Bankshares, Inc.*, Union, West Virginia; to become a bank holding company by acquiring 100 percent of the voting shares of The Bank of Monroe, Union, West Virginia.

**B. Federal Reserve Bank of Chicago** (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

*1. NCB Holdings, Inc.*, Chicago, Illinois (in formation); to become a bank holding company by acquiring 100 percent of the voting shares of New Century Bank, Chicago, Illinois (in organization).

Board of Governors of the Federal Reserve System, August 4, 1998.

**Robert deV. Frierson,**

*Associate Secretary of the Board.*

[FR Doc. 98–21200 Filed 8–6–98; 8:45 am]

BILLING CODE 6210–01–F

## FEDERAL RESERVE SYSTEM

### Sunshine Act Meeting

**AGENCY HOLDING THE MEETING:** Board of Governors of the Federal Reserve System.

**TIME AND DATE:** 10:00 a.m., Wednesday, August 12, 1998.

**PLACE:** Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, N.W., Washington, D.C. 20551.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:**

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any matters carried forward from a previously announced meeting.

**CONTACT PERSON FOR MORE INFORMATION:** Lynn S. Fox, Assistant to the Board; 202–452–3204.

**SUPPLEMENTARY INFORMATION:** You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at http://www.bog.frb.fed.us for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: August 5, 1998.

**Robert deV. Frierson,**

*Associate Secretary of the Board.*

[FR Doc. 98–21294 Filed 8–5–98; 12:03 pm]

BILLING CODE 6210–01–P

## GENERAL SERVICES ADMINISTRATION

**[OMB Control No. 3090–0198]**

### Submission for OMB Review; Comment Request Entitled Foreign Acquisition

**AGENCY:** Office of Acquisition Policy, GSA.

**ACTION:** Notice of request for an extension to an existing OMB clearance (3090–0198).

**SUMMARY:** Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Office of Acquisition Policy has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement concerning Foreign Acquisition. A

request for public comments was published 63 FR 29412, May 29, 1998. No comments were received

**DATES:** Comment Due Date: September 8, 1998.

**ADDRESSES:** Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to: Edward Springer, GSA Desk Officer, Room 3235, NEOB, Washington, DC 20503, and to Marjorie Ashby, General Services Administration (MVP), 1800 F Street NW, Washington, DC 20405.

**FOR FURTHER INFORMATION CONTACT:** Al Matera, Office of GSA Acquisition Policy (202) 501–1224.

**SUPPLEMENTARY INFORMATION:**

### A. Purpose

The GSA is requesting the Office of Management and Budget (OMB) to review and approve information collection, 3090–0198, concerning Foreign Acquisition. Offerors are required to identify whether items are foreign source end products and the dollar amount of import duty for each product.

### B. Annual Reporting Burden

Respondents: 9; annual responses: 9; average hours per response: .10; burden hours: 1.5.

**COPY OF PROPOSAL:** A copy of this proposal may be obtained from the GSA Acquisition Policy Division (MVP), Room 4011, GSA Building, 1800 F Street NW, Washington, DC 20405, or by telephoning (202) 501–3822, or by faxing your request to (202) 501–3341.

Dated: July 30, 1998.

**Ida M. Ustad,**

*Deputy Associate Administrator, Office of Acquisition Policy.*

[FR Doc. 98–21133 Filed 8–6–98; 8:45 am]

BILLING CODE 6820–61–M

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## GENERAL SERVICES ADMINISTRATION

**[OMB Control No. 3090–0027]**

## Submission for OMB Review; Comment Request Entitled Contract Administration and Quality Assurance

**AGENCY:** Office of Acquisition Policy, GSA.

**ACTION:** Notice of request for public comments regarding extension to an existing OMB clearance (3090–0027).

**SUMMARY:** Under the provisions of the Paperwork Reduction Act of 1955 (44 U.S.C. Chapter 35), the Office of Acquisition Policy has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Contract Administration and Quality Assurance. A request for public comments was published at 63 FR 29412, May 29, 1998. No comments were received.

**DATES:** Comment Due Date: September 8, 1998.

**FOR FURTHER INFORMATION CONTACT:** Al Matera, Office of GSA Acquisition Policy (202) 501–1224.

**ADDRESSES:** Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to: Edward Springer, GSA Desk Officer, Room 3235, NEOB, Washington, DC 20503, and to Marjorie Ashby, General Services Administration (MVP), 1800 F Street NW, Washington, DC 20405.

**SUPPLEMENTARY INFORMATION:**

### A. Purpose

The GSA is requesting the Office of Management and Budget (OMB) to review and approve information collection 3090–0027, Contract Administration and Quality Assurance. This information is used by various contract administration and other support offices for quality assurance, acceptance of supplies and services, shipments, and to justify payments.

### B. Annual Reporting Burden

Respondents: 2,800; annual responses: 33,600; average hours per response: .05; burden hours: 2,800.

**COPY OF PROPOSAL:** a copy of this proposal may be obtained from the GSA Acquisition Policy Division (MVP), Room 4011, GSA Building, 1800 F Street NW, Washington, DC 20405, or by telephone (202) 501–3822, or by faxing your request to (202) 501–3341.

Dated: July 30, 1998.

**Ida M. Ustad,**

*Deputy Associate Administrator for Acquisition Policy.*

[FR Doc. 98–21134 Filed 8–6–98; 8:45 am]

BILLING CODE 6820–61–M

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## GENERAL SERVICES ADMINISTRATION

## Federal Supply Service

## Solicitation of Third Party Logistics Services for Freight Shipment Test Pilot Project

**AGENCY:** Federal Supply Service, GSA.

**ACTION:** Notice of proposed solicitation for comment.

**SUMMARY:** The General Services Administration (GSA) is planning to issue a solicitation for award of a firm fixed price plus incentive task order contract for Third Party Logistics (3PL) Services. The contract awarded will be used to pilot test the potential economies and efficiencies of using 3PL services for Government freight traffic and to evaluate whether proposed new approaches to ordering transportation services and paying and auditing transportation billings could be used on a Governmentwide basis. The majority of shipments in the test will originate at GSA's Southeastern Distribution Center (SEDC), 8400 Tatum Road, Palmetto, Georgia for delivery to the SEDC's primary customer locations. GSA solicits your comments on the proposed solicitation outlined in the supplementary information.

**DATES:** Please submit your comments by October 6, 1998.

**ADDRESSSES:** Mail comments to the Transportation Management Division (FBF), General Services Administration, Washington, DC 20406, Attn: 3PL **Federal Register** Notice. GSA will consider your comments prior to finalizing the solicitation.

**FOR FURTHER INFORMATION CONTACT:** Ms. Patricia Walker, Contract Management Division (4FQ–P), 401 West Peachtree Street, NW, Suite 2600, Atlanta, GA 30365, Telephone No. 404–331–3509.

**SUPPLEMENTARY INFORMATION:** Under the pilot test described in the summary, GSA proposes to change a variety of transportation-related procedures. Specifically, GSA intends for the 3PL to:

(a) Use commercial forms and/or electronic commerce;

(b) Pre-screen carriers for participation in GSA's freight program and monitor and report on carrier performance;

(c) Select carriers and use multiple procurement strategies (e.g., shipment consolidations, spot bids, etc.) to attain cost efficiencies;

(d) Manage freight shipments from receipt of shipment data through delivery;

(e) Track/trace shipments and provide access to tracking/tracing information via the internet so GSA customers can monitor shipment status;

(f) Manage loss and damage claims from receipt and evaluation of loss/damage reports to filing, tracking, monitoring, and settling claims; and

(g) Pay carriers for transportation services provided through use of a Government charge card.

Interested parties may obtain a copy of the solicitation by writing to Ms. Patricia Walker at the address indicated in the **FOR FURTHER INFORMATION CONTACT** paragraph.

Dated: August 3, 1998.

**Allan J. Zaic,**

*Assistant Commissioner, Office of Transportation and Property Management.*

[FR Doc. 98–21131 Filed 8–6–98; 8:45 am]

**BILLING CODE 6820–24–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Notice of Meeting of the Advisory Committee on Blood Safety and Availability

**AGENCY:** Office of the Secretary.

**ACTION:** Revised notice of meeting.

The Advisory Committee on Blood Safety and Availability will meet on August 27, 1998, from 8:00 a.m. to 5:00 p.m. and on August 28, 1998 from 8:00 a.m. to 3:00 p.m. The meeting will take place in the Ticonderoga Room of the Hyatt Regency Hotel on Capitol Hill, 400 New Jersey, N.W., Washington, D.C. 20001. The meeting will be entirely open to the public.

The agenda of this meeting has been revised as follows: on August 27, 1998 the Committee will consider potential barriers to the evolution from human- to recombinant-based blood products. The focus of this discussion will be on blood products used by patients with bleeding disorders. The discussion will be limited to this topic so that the Committee can discuss, on August 28, 1998 what, if any, additional recommendations it may wish to make regarding the transmissible spongiform encephalopathies and blood safety.

Public comment on the first topic will be solicited at or about 1:00 p.m. on August 28, 1998; public comment on the second topic will be solicited at or about 11:00 a.m. on August 28, 1998. Public comment will be limited to three minutes per speaker. Those who wish to have printed material distributed to Advisory Committee members should submit thirty (30) copies to the Executive Secretary prior to close of business August 14, 1998.

**FOR FURTHER INFORMATION CONTACT:** Stephen D. Nightingale, M.D., Executive Secretary, Advisory Committee on Blood Safety and Availability, Office of Public Health and Safety, Department of Health and Human Services, 200 Independence Avenue S.W., Washington, D.C. 20201. Phone (202) 690–5560 FAX (202) 690–6584 e-mail SNIGHTIN@osophs.dhhs.gov.

Dated: July 27, 1998.

**Stephen D. Nightingale,**

*Executive Secretary, Advisory Committee on Blood Safety and Availability.*

[FR Doc. 98–21236 Filed 8–6–98; 8:45 am]

**BILLING CODE 4160–17–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

### Submission for OMB Review; Comment Request

*Title:* Early Head Start Evaluation.

*OMB No:* 0970–0143.

*Description:* The Head Start Reauthorization Act of 1994 established a special initiative creating funding for services for families with infants and toddlers. In response the Administration on Children, Youth and Families (ACYF) designed the Early Head Start (EHS) program. In September 1995, ACYF awarded grants to 68 local programs to serve families with infants and toddlers. ACYF has subsequently awarded grants to an additional 107 local programs, for a total of 175 EHS programs.

EHS programs are designed to produce outcomes in four domains: (1) child development, (2) family development, (3) staff development, and (4) community development. The Reauthorization required that this new initiative be evaluated. To study the effect of the initiative, ACYF awarded a contract through a competitive procurement to Mathematical Policy Research, Inc. (MPR) with a subcontract to Columbia University's Center for Young Children and Families. The evaluation will be carried out from October 1, 1995 through September 30, 2000. Data collection activities that are the subject of this Federal Register notice are intended for the third and final phase of the EHS evaluation.

The sample for the child and family assessments will be approximately 3,000 families who include a pregnant woman or a child under 12 months of age, in 17 EHS study sites. Each family will be randomly assigned to a treatment group or a control group. The sample for the child care assessments will include the primary child care provider for the focal child in each of the 3,000 study sample families. The surveys and assessments will be conducted through computer-assisted telephone and personal interviewing, pencil and paper self-administered questionnaires, structured observations and videotaping. All data collection instruments have been designed to minimize the burden on respondents by minimizing interviewing and assessment time. Participation in the study is voluntary and confidential.

The information will be used by government managers, Congress and others to identify the features and evaluate the effectiveness of the EHS program.

*Respondents:* Applicants to the Early Head Start program and child care providers for Early Head Start families and control group families.

*Annual Burden Estimates:*

| Instrument | Number of respondents | Number of responses per respondent | Average burden hours per response | Total burden hours |
|---|---|---|---|---|
| 36-Month Parent Interview, Child Assessment, and Videotaping Protocol | 576 | 1 | 2.0 | 1,152 |
| Child Care Provider Interview: | | | | |
| Child Care Centers— | | | | |
| Center Directors | 161 | 1 | .25 | 40 |
| Direct Provider | 161 | 1 | .17 | 27 |
| Classroom Staff | 161 | 1 | .17 | 27 |
| Family Child Care Providers | 40 | 1 | .5 | 20 |
| Family Provider Assistants | 9 | 1 | .17 | 1 |
| Relative Care Providers | 113 | 1 | .5 | 57 |
| Relative Provider Assistants | 25 | 1 | .17 | 4 |
| Child Care Provider Observation Protocol: | | | | |
| Child Care Centers— | | | | |
| Family Child Care Providers | 161 | 1 | 2 | 321 |
| Relative Care Providers | 40 | 1 | 2 | 79 |

| Instrument | Number of respondents | Number of responses per respondent | Average burden hours per response | Total burden hours |
|---|---|---|---|---|
| ..... | 113 | 1 | 2 | 227 |
| Staff Questionnaire ..... | 190 | 1 | 1 | 190 |
| Estimated Total Annual Burden Hours: ..... | ..... | ..... | ..... | 2,146 |

*Additional Information:* Copies of the proposed collection of information can be obtained by writing to The Administration for Children and Families, Office of Information Services, Division of Information Resource management, 370 L'Enfant Promenade, S.W., Washington, DC 20047, Attn.: ACF Reports Clearance Officer.

*OMB Comment:* OMB is required to make a decision concerning the collection of information between 30 to 60 days after publication of this document in the **Federal Register.** Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, 725 17th Street, NW, Washington, DC 20503, Attn: Ms. Wendy Taylor.

Dated: August 3, 1998.

**Bob Sargis,**

*Acting Reports Clearance Officer.*

[FR Doc. 98–21111 Filed 8–6–98; 8:45 am]

BILLING CODE 4184–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. 98N–0515]**

### Agency Information Collection Activities; Submission for OMB Review; Comment Request

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

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (the PRA).

**DATES:** Submit written comments on the collection of information by September 8, 1998.

**ADDRESSES:** Submit written comments on the collection of information to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attn: Desk Officer for FDA.

**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 compliance with section 3507 of the PRA (44 U.S.C. 3507), FDA has submitted the following proposed collection of information to OMB for review and clearance.

### Amendments to Humanitarian Use Device (HUD) Requirements

Section 520(m) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360j(f)) was created as an incentive for the development of HUD's for use in the treatment or diagnosis of diseases or conditions affecting fewer than 4,000 individuals in the United States. FDA is issuing this rule to amend the existing regulations governing HUD's, found in part 814 (21 CFR part 814), to conform to the amendments made by the Food and Drug Administration Modernization Act of 1997 (FDAMA) to section 520(m) of the act.

In the **Federal Register** of April 17, 1998 (63 FR 19185), the agency requested comments on the proposed collection of information amending the regulations governing HUD's. FDA received one comment concerning the information collection provisions of the rule. A summary of the comment and FDA's response is provided as follows.

The comment objected to the annual reporting requirement and suggested that FDA determine the appropriate reporting period at the time of product approval rather than always requiring reporting on an annual basis.

FDA has modified the rule in response to this comment. Under the final rule of June 26, 1996 (61 FR 33232), a humanitarian device exemption (HDE) holder was required to obtain approval of an extension request every 18 months in order to continue marketing the HUD. FDAMA eliminated this requirement but provided that FDA may require the holder to demonstrate continued compliance with the HDE requirements if the agency believes that such demonstration is needed to protect the public health or has reason to believe that the criteria for the exemption are no longer met.

FDA included a provision for annual reporting in the proposed rule because the agency believed that annual reporting would be the most appropriate mechanism for the agency to monitor whether there is reason to question the continued exemption of the device from the act's effectiveness requirements. Upon reconsideration, FDA has determined that the reporting frequency necessary to protect the public health may vary depending upon the device, its intended use, the affected patient population, and experience with the device after it is marketed. Therefore, § 814.126(b)(1) has been modified in the final rule to state that the frequency of the reports will be specified in the approval order for the HDE. Ordinarily, FDA does not expect to require periodic reports to be submitted more frequently than annually. FDA does believe, however, that it may be appropriate to require reports on certain HDE's less frequently and that in many cases the frequency of required reports will decrease after the device has been marketed for a period of time.

FDA estimates that, due to the nature of some of the devices, initially 15 HDE holders per year will be required to submit annual reports. As the agency and industry gain experience with HDE's, FDA believes the number of HDE holders who will be required to submit annual reports will decrease. FDA believes that much of the information will already be in the HDE holder's possession, and the agency estimates that the reports will take an average of 120 hours per response.

The same comment also objected to the ''requirement'' that an ''HDE holder maintain records in perpetuity * * *'' and suggested that a more appropriate timeframe would be 3-calendar years after the manufacturer ceases distribution of the product in question.

Section 814.126(b)(2) of the HDE regulation specifies the types of records that should be maintained by the HDE holder, but does not specify the

timeframe for maintaining such records. FDA agrees that a reasonable timeframe should be established for maintaining such records and intends to specify such timeframes as part of the approval order. Accordingly, FDA has modified the regulation to state that records shall be maintained in accordance with the approval order for the HDE.

Section 814.124(a) is amended to allow physicians in emergency situations to administer a HUD prior to obtaining institutional review board (IRB) approval. In such situations, the physician is required to provide written notification, including the identification of the patient involved, the date of use, and the reason for use, to the IRB within 5 days after emergency use. FDA anticipates that five physicians will use HUD's in emergency situations before obtaining approval from an IRB. FDA estimates that notifications under this section will take an average of 1 hour per response.

In addition to the changes required by FDAMA, FDA is amending § 814.104(b)(5) to allow a sponsor who is charging more than $250 per HUD to submit, in lieu of a report by an independent CPA, an attestation by a responsible individual of the organization, verifying that the amount charged does not exceed the device's cost of research, development, fabrication, and distribution. In addition, the amendments to § 814.104(b)(5) waive the requirement for submission of any CPA report or attestation for HUD's for which an HDE applicant is charging $250 or less. FDA anticipates, based on past experience, that 7 of the anticipated 15 HDE holders per year will charge less than $250 per HUD, and thus be exempt from the § 814.104(b)(5) requirement altogether. For the remaining eight HDE holders, FDA anticipates that all will submit attestations in lieu of CPA reports, and estimates that these submissions will require 2 hours to complete.

*Description of Respondents*: Business or other for profit organizations.

FDA estimates the burden for this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

| 21 CFR Section | No. of Respondents | Annual Frequency per Response | Total Annual Responses | Hours per Response | Total Hours |
|---|---|---|---|---|---|
| 814.104(b)(5) | 8 | 1 | 8 | 2 | 16 |
| 814.124(a) | 5 | 1 | 5 | 1 | 5 |
| 814.126(b)(1) | 15 | 1 | 15 | 120 | 1,800 |
| Total | | | | | 1,821 |

[1] There are no operating and maintenance costs or capital costs associated with this collection of information.

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]

| 21 CFR Section | No. of Recordkeepers | Annual Frequency per Recordkeeping | Total Annual Records | Hours per Recordkeeper | Total Hours |
|---|---|---|---|---|---|
| 814.126(b)(2) | 15 | 1 | 15 | 2 | 30 |

[1] There are no operating and maintenance costs or capital costs associated with this collection of information.

Dated: July 31, 1998.

**William K. Hubbard,**

*Associate Commissioner for Policy Coordination.*

[FR Doc. 98–21088 Filed 8–6–98; 8:45 am]

BILLING CODE 4160–01–F

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

## Food and Drug Administration

## [Docket No. 97E–0290]

## Determination of Regulatory Review Period for Purposes of Patent Extension; Aqueous Aryl Fluorophosphite Suspension

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

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) has determined the regulatory review period for Aqueous Aryl Fluorophosphite Suspension and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that food additive.

**ADDRESSES:** Written comments and petitions should be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

**FOR FURTHER INFORMATION CONTACT:** Brian J. Malkin, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–6620.

**SUPPLEMENTARY INFORMATION:** The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For food additives, the testing phase begins when a major health or environmental effects test involving the food additive begins and runs until the approval phase begins. The approval phase starts with the initial submission of a petition requesting the issuance of a regulation for use of the food additive and continues until FDA grants permission to market the food additive product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may

have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a food additive will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the food additive Aqueous Aryl Fluorophosphite Suspension (2,2'-ethylidenebis(4,6-di-tertbutylphenyl)fluorophosphonite). Aqueous Aryl Fluorophosphite Suspension is used as an antioxidant used in adhesives and in the preparation of polymers intended for contact with food. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Aqueous Aryl Fluorophosphite Suspension (U.S. Patent No. 4,912,155) from Albemarle Corp., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated March 3, 1998, FDA advised the Patent and Trademark Office that this food additive had undergone a regulatory review period and that the approval of Aqueous Aryl Fluorophosphite Suspension represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Aqueous Aryl Fluorophosphite Suspension is 2,930 days. Of this time, 935 days occurred during the testing phase of the regulatory review period, 1,995 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date a major health or environmental effects test (''test'') involving this food additive product was begun*: January 9, 1989. The applicant claims July 21, 1986, as the date the test was begun. However, FDA records indicate that the test was begun on January 9, 1989.

2. *The date the petition requesting the issuance of a regulation for use of the additive (''petition'') was initially submitted with respect to the food additive product under section 409 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348)*: August 1, 1991. FDA has verified the applicant's claim that the petition was initially submitted on August 1, 1991.

3. *The date the petition became effective*: January 15, 1997. FDA has verified the applicant's claim that the regulation for the additive became effective/commercial marketing was permitted on January 15, 1997.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,390 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before October 6, 1998, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before February 3, 1999, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: July 8, 1998.

**Thomas J. McGinnis,**

*Deputy Associate Commissioner for Health Affairs.*

[FR Doc. 98–21130 Filed 8–7–98; 8:45 am]

BILLING CODE 4160–01–F

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. 98P–0220]**

### Determination That Acyclovir 200-Milligram Tablets Were Not Withdrawn From Sale for Reasons of Safety or Effectiveness

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

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing its determination that acyclovir 200-milligram (mg) tablets were not withdrawn from sale for reasons of safety or effectiveness. This determination will allow FDA to approve abbreviated new drug applications (ANDA's) for acyclovir 200-mg tablets.

**FOR FURTHER INFORMATION CONTACT:** Richard L. Schwartzbard, Center for Drug Evaluation and Research (HFD–7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2041.

**SUPPLEMENTARY INFORMATION:** In 1984, Congress enacted the Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) (the 1984 amendments), which authorized the approval of duplicate versions of drug products approved under an ANDA procedure. ANDA sponsors must, with certain exceptions, show that the drug for which they are seeking approval contains the same active ingredient in the same strength and dosage form as the ''listed drug,'' which is a version of the drug that was previously approved under a new drug application (NDA). Sponsors of ANDA's do not have to repeat the extensive clinical testing otherwise necessary to gain approval of an NDA. The only clinical data required in an ANDA are data to show that the drug that is the subject of the ANDA is bioequivalent to the listed drug.

The 1984 amendments included what is now section 505(j)(6) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(6)), which requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the ''Approved Drug Products with Therapeutic Equivalence Evaluations,'' a publication generally known as the ''Orange Book.'' Under the FDA regulations, drugs are withdrawn from the list if the agency withdraws or suspends approval of the drug's NDA or ANDA for reasons of safety or effectiveness, or if FDA determines that the listed drug was withdrawn from sale for reasons of safety or effectiveness (21 CFR 314.162). Regulations also provide that the agency must make a determination as to whether a listed drug was withdrawn from sale for reasons of safety or effectiveness before an ANDA that refers to that listed drug may be approved (§ 314.161(a)(1) (21 CFR 314.161(a)(1)). FDA may not approve an ANDA that does not refer to a listed drug.

In a citizen petition dated September 17, 1997 (Docket No. 98P–0220/CP1), received by FDA on April 1, 1998, and submitted in accordance with 21 CFR 314.122, TorPharm Inc., requested that the agency determine whether acyclovir 200-mg tablets were withdrawn from sale for reasons of safety or effectiveness. Acyclovir 200-mg tablets are the subject of approved ANDA 74–

556 held by Novopharm Ltd.[1] FDA approved ANDA 74–556 on April 22, 1997, and subsequently declared that Novopharm's acyclovir 200-mg tablets are a reference listed drug. However, after learning that Novopharm decided not to market ANDA 74–556, FDA moved the listing for acyclovir 200-mg tablets to the ''Discontinued Drug Product List'' section of the Orange Book.

FDA has reviewed its records and, under § 314.161, has determined that Novopharm's decision not to market its approved ANDA for acyclovir 200-mg tablets was not for reasons of safety or effectiveness. Accordingly, the agency will maintain acyclovir 200-mg tablets in the ''Discontinued Drug Product List'' section of the Orange Book. The ''Discontinued Drug Product List'' identifies, among other items, drug products that have been discontinued from marketing for reasons other than safety or effectiveness. ANDA's that refer to acyclovir 200-mg tablets may be approved by the agency.

Dated: July 31, 1998.

**William K. Hubbard,**

*Associate Commissioner for Policy Coordination.*

[FR Doc. 98–21129 Filed 8–6–98; 8:45 am]

BILLING CODE 4160–01–F

[1] The reference listed drug upon which ANDA 74–556 itself was approved was Zovirax (acyclovir) 200-mg capsules.

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. 97E–0464]**

### Determination of Regulatory Review Period for Purposes of Patent Extension; Mirapex®

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

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) has determined the regulatory review period for Mirapex® and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

**ADDRESSES:** Written comments and petitions should be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

**FOR FURTHER INFORMATION CONTACT:** Brian J. Malkin, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–6620.

**SUPPLEMENTARY INFORMATION:** The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product Mirapex® (pramipexole dihydrochloride monohydrate). Mirapex® is indicated for the treatment of the signs and symptoms of idiopathic Parkinson's disease. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Mirapex® (U.S. Patent No. 4,886,812) from Boehringer Ingelheim International GmbH, and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated February 17, 1998, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of Mirapex® represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that the FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Mirapex® is 2,576 days. Of this time, 2,024 days occurred during the testing phase of the regulatory review period, 552 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355) became effective*: June 14, 1990. The applicant claims February 20, 1991, as the date the investigational new drug application (IND) became effective. However, FDA records indicate that the IND effective date was June 14, 1990, which was 30 days after FDA receipt of the IND.

2. *The date the application was initially submitted with respect to the human drug product under section 505 of the act*: December 28, 1995. The applicant claims December 26, 1995, as the date the new drug application (NDA) for Mirapex® (NDA 20–667) was initially submitted. However, FDA records indicate that NDA 20–667 was submitted on December 28, 1995.

3. *The date the application was approved*: July 1, 1997. The applicant claims July 2, 1997, as the date the NDA for Mirapex® (NDA 20–667) was approved. However, FDA records indicate that NDA 20–667 was approved on July 1, 1997.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,440 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before October 6, 1998, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before February 3, 1999, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: July 8, 1998.

**Thomas J. McGinnis,**

*Deputy Associate Commissioner for Health Affairs.*

[FR Doc. 98–21090 Filed 8–6–98; 8:45 am]

BILLING CODE 4160–01–F

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. 97E–0461]**

### Determination of Regulatory Review Period for Purposes of Patent Extension; Cook GRII™ Coronary Stent

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

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) has determined the regulatory review period for Cook GRII™ Coronary Stent and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that medical device.

**ADDRESSES:** Written comments and petitions should be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

**FOR FURTHER INFORMATION CONTACT:** Brian J. Malkin, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–6620.

**SUPPLEMENTARY INFORMATION:** The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For medical devices, the testing phase begins with a clinical investigation of the device and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the device and continues until permission to market the device is granted. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a medical device will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(3)(B).

FDA recently approved for marketing the medical device Cook GRII™ Coronary Stent. Cook GRII™ Coronary Stent is indicated for treatment of acute or threatened closure in patients with failed interventional therapy in vessels with reference diameters in the range of 2.1 mm to 4.0 mm. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Cook GRII™ Coronary Stent (U.S. Patent No. 5,041,126) from Cook, Inc., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated December 29, 1997, FDA advised the Patent and Trademark Office that this medical device had undergone a regulatory review period and that the approval of Cook GRII™ Coronary Stent represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Cook GRII™ Coronary Stent is 511 days. Of this time, 343 days occurred during the testing phase of the regulatory review period, while 168 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date a clinical investigation involving this device was begun*: December 20, 1995. FDA has verified the applicant's claim that the date the investigational device exemption (IDE) required under section 520(g) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360j(g)) for human tests to begin became effective December 20, 1995.

2. *The date the application was initially submitted with respect to the device under section 515 of the act (21 U.S.C. 360e)*: November 26, 1996. The applicant claims November 23, 1996, as the date the Premarket Approval Application (PMA) for Cook GRII™ Coronary Stent (PMA 910030) was initially submitted. However, FDA records indicate that PMA 910030 was submitted on November 26, 1996.

3. *The date the application was approved*: May 12, 1997. FDA has verified the applicant's claim that PMA 910030 was approved on May 12, 1997.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 341 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before October 6, 1998, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before February 3, 1999, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: July 8, 1998.

**Thomas J. McGinnis,**

*Deputy Associate Commissioner for Health Affairs.*

[FR Doc. 98–21089 Filed 8–6–98; 8:45 am]

BILLING CODE 4160–01–F

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Care Financing Administration

**[Document Identifier: HCFA–R–246]**

### 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 Request:* Extension of Currently Approved Collection.

*Title of Information Collection:* HEDIS 3.0 (Health Plan Data and Information Set) CAHPS (Consumer Assessment of Health Plans Study) Survey and Supporting Regulations 42 CFR 417.470, 417.126.

*Form Number:* HCFAR–246 (OMB approval #: 0938–0732).

*Use:* This collection effort (CAHPS) will be used to hold the Medicare managed care industry accountable for the quality of care they are delivering. This requirement will allow HCFA to obtain the information necessary for the proper oversight of the program. It is critical to HCFA's mission that we collect and disseminate information that will help beneficiaries choose among plans, contribute to the improved quality of care through identification of quality improvement opportunities, and assist HCFA in carrying out its responsibilities.

*Frequency:* Annually.

*Affected Public:* Businesses or other for profit, Individuals or Households.

*Number of Respondents:* 150,240.

*Total Annual Responses:* 150,240.

*Total Annual Hours Requested:* 49,579

To obtain copies of the supporting statement for the proposed paperwork collections referenced above, 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, Security and Standards Group, Division of HCFA Enterprise Standards, Attention: John Rudolph, Room N2–14–26 7500, Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: July 27, 1998.

**John P. Burke III,**

*HCFA Reports Clearance Officer, Division of HCFA Enterprise Standards, Security and Standards Group, Health Care Financing Administration.*

[FR Doc. 98–21109 Filed 8–6–98; 8:45 am]

**BILLING CODE 4120–03–P**

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Office of Inspector General

### Solicitation of Information and Recommendations for Developing OIG Compliance Program Guidance for the Durable Medical Equipment Industry

**AGENCY:** Office of Inspector General (OIG), HHS.

**ACTION:** Notice.

**SUMMARY:** This **Federal Register** notice seeks the input and recommendations of interested parties into the OIG's development of a compliance program guidance for the durable medical equipment (DME) industry, its providers and suppliers. Many providers and provider organizations have expressed an interest in better protecting their operations from fraud and abuse. Previously, the OIG has developed compliance program guidances for hospitals, clinical laboratories and home health agencies. In order to provide clear and meaningful guidance to those segments of the health care industry involved in the supply and distribution of DME, we are soliciting comments, recommendations and other suggestions from concerned parties and organizations on how best to develop compliance program guidance and reduce fraud and abuse within the DME industry.

**DATES:** To assure consideration, comments must be delivered to the address provided below by no later than 5 p.m. on September 21, 1998.

**ADDRESSES:** Please mail or deliver your written comments, recommendations and suggestions to the following address:

Office of Inspector General, Department of Health and Human Services, Attention: OIG–3–CPG, Room 5246, Cohen Building, 330 Independence Avenue, SW, Washington, DC 20201.

We do not accept comments by facsimile (FAX) transmission. In commenting, please refer to file code OIG–3–CPG. Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in Room 5541 of the Office of Inspector General at 330 Independence Avenue, SW, Washington, DC, on Monday through Friday of each week from 8:00 a.m. to 4:30 p.m.

**FOR FURTHER INFORMATION CONTACT:** Christine Saxonis, Office of Counsel to the Inspector General, (202) 619–2078, or Joel Schaer, Office of Counsel to the Inspector General, (202) 619–0089.

**SUPPLEMENTARY INFORMATION:** The creation of compliance program guidance has become a major initiative of the OIG in its effort to engage the private health care community in addressing and fighting fraud and abuse. Recently, the OIG has developed and issued compliance program guidance directed at various segments of the health care industry.[1] This guidance is designed to provide clear direction and assistance to specific sections of the health care industry that are interested in reducing and eliminating fraud and abuse within their organizations.

The guidances represent the OIG's suggestions on how providers can best establish internal controls and monitoring to correct and prevent fraudulent activities. The contents of the guidances should not be viewed as mandatory for providers or as an exclusive discussion of the advisable elements of a compliance program.

In an effort to formalize the process by which the OIG receives public comments in connection with compliance program guidances, we are seeking, through this **Federal Register** notice, formal input from all interested parties as the OIG begins developing compliance program guidance directed at the DME industry, its providers and suppliers. The OIG will give consideration to all comments, recommendations and suggestions

[1] 62 FR 9435 (March 3, 1997) for clinical laboratories and 63 FR 8987 (February 23, 1998) for hospitals. The guidances can also be found on the OIG web site at http:/www.dhhs.gov/progorg/oig.

submitted and received by the time frame indicated above.

We anticipate that the DME guidance will contain the seven elements that we consider necessary for a comprehensive compliance program. These seven elements have been discussed in our previous guidances and include:

- The development of written policies and procedures;
- The designation of a compliance officer and other appropriate bodies;
- The development and implementation of effective training and education;
- The development and maintenance of effective lines of communication;
- The enforcement of standards through well-publicized disciplinary guidelines;
- The use of audits and other evaluation techniques to monitor compliance; and
- The development of procedures to respond to detected offenses and to initiate corrective action.

We would appreciate specific comments, recommendations and suggestions on (1) risk areas for the DME industry, and (2) aspects of the seven elements contained in previous guidances that may need to be modified to reflect the unique characteristics of the DME industry. Detailed justifications and empirical data supporting suggestions would be appreciated. We are also hopeful that any comments, recommendations and input be submitted in a format that addresses the above topics in a concise manner, rather than in the form of comprehensive draft guidance that mirrors previous guidance.

Dated: July 28, 1998.

**June Gibbs Brown,**

*Inspector General.*

[FR Doc. 98–20965 Filed 8–6–98; 8:45 am]

BILLING CODE 4150–04–P

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Office of Inspector General

### Publication of the OIG Compliance Program Guidance for Home Health Agencies

**AGENCY:** Office of Inspector General (OIG), HHS.

**ACTION:** Notice.

**SUMMARY:** This **Federal Register** notice sets forth the recently issued Compliance Program Guidance for Home Health Agencies developed by the Office of Inspector General (OIG) in cooperation with, and with input from, several provider groups and industry representatives. Many home health care providers have expressed interest in better protecting their operations from fraud and abuse through the adoption of a voluntary compliance program. The OIG has previously developed and published compliance program guidances focused on the clinical laboratory and hospital industries (62 FR 9435, March 3, 1997 and 63 FR 8987, February 23, 1998, respectively). We believe that the development of this compliance program guidance for the home health industry will continue as a positive step towards promoting a higher level of ethical and lawful conduct throughout the entire health care community.

**FOR FURTHER INFORMATION CONTACT:** Michael Shaw, Office of Counsel to the Inspector General, (202) 619–2078.

**SUPPLEMENTARY INFORMATION:** The creation of compliance program guidances has become a major initiative of the OIG in its efforts to engage the health care community in combating fraud and abuse. In formulating compliance guidances, the OIG has worked closely with the Health Care Financing Administration, the Department of Justice and various sectors of the health care industry to provide clear guidance to those segments of the industry that are interested in reducing fraud and abuse within their organizations. The first of these compliance program guidances focused on clinical laboratories and was published in the **Federal Register** on March 3, 1997 (62 FR 9435). Building on basic elements of the first issuance, the second compliance program guidance developed by the OIG focused on the hospital industry and was published in the **Federal Register** on February 23, 1998 (63 FR 8987). The development of these types of compliance program guidance is based on our belief that a health care provider can use internal controls to more efficiently monitor adherence to applicable statutes, regulations and program requirements.

The OIG has identified seven fundamental elements to an effective compliance program. They are:

- Implementing written policies, procedures and standards of conduct;
- Designating a compliance officer and compliance committee;
- Conducting effective training and education;
- Developing effective lines of communication;
- Enforcing standards through well-publicized disciplinary guidelines;
- Conducting internal monitoring and auditing; and
- Responding promptly to detected offenses and developing corrective action.

Using these seven basic elements, the OIG has identified specific areas of home health operations that, based on prior Government enforcement efforts, have proven to be vulnerable to fraud and abuse. The development of this Compliance Program Guidance for Home Health Agencies has been further enhanced by input from various home health trade associations and others with expertise in the home health industry. Regardless of a home health agency's size and structure—whether large or small, urban or rural, for-profit or non-profit—the OIG believes that every home health agency can and should strive to accomplish the objectives and principles underlying all of the compliance policies and procedures set forth in this accompanying guidance. Like the previously-issued compliance guidances for hospitals and clinical laboratories, adoption of the Compliance Program Guidance for Home Health Agencies set forth below will be voluntary.

A reprint of the OIG's Compliance Program Guidance for Home Health Agencies follows.

### Office of Inspector General's Compliance Program Guidance for Home Health Agencies

### I. Introduction

The Office of Inspector General (OIG) of the Department of Health and Human Services (HHS) continues in its efforts to promote voluntarily developed and implemented compliance programs for the health care industry. The following compliance program guidance is intended to assist home health agencies [1] and their agents and subproviders (referred to collectively in this document as ''home health agencies'') develop effective internal controls that promote adherence to applicable Federal and State law, and the program requirements of Federal, State, and private health plans.[2] The adoption and implementation of voluntary compliance programs significantly advance the prevention of fraud, abuse, and waste in these health care plans while at the same time further the fundamental mission of all

[1] The term ''home health agency'' is applied in this document as defined in section 1861(o) of the Social Security Act, 42 U.S.C. 1395x(o).

[2] This Compliance Program Guidance for Home Health Agencies is not intended to address issues specific to suppliers of durable medical equipment, infusion therapy, and other services typically provided in the home setting.

home health agencies, which is to provide quality care to patients.

Within this document, the OIG first provides its general views on the value and fundamental principles of home health agency compliance programs, and then provides the specific elements that each home health agency should consider when developing and implementing an effective compliance program. While this document presents basic procedural and structural guidance for designing a compliance program, it is not in itself a compliance program. Rather, it is a set of guidelines to be considered by a home health agency interested in implementing a compliance program.

The OIG recognizes the size-differential that exists between operations of the different home health agencies and organizations that compose the home health industry. Appropriately, this guidance is pertinent for all home health agencies, whether for-profit or non-profit, large or small, urban or rural. The applicability of the recommendations and guidelines provided in this document depends on the circumstances of each particular home health agency. However, regardless of a home health agency's size and structure, the OIG believes that every home health agency can and should strive to accomplish the objectives and principles underlying all of the compliance policies and procedures recommended within this guidance.

Fundamentally, compliance efforts are designed to establish a culture within a home health agency that promotes prevention, detection, and resolution of instances of conduct that do not conform to Federal and State law, and Federal, State, and private payor health care program requirements, as well as the home health agency's business policies. In practice, the compliance program should effectively articulate and demonstrate the organization's commitment to ethical conduct. The existence of benchmarks that demonstrate implementation and achievements are essential to any effective compliance program. Eventually, a compliance program should become part of the fabric of routine home health agency operations.

Specifically, compliance programs guide a home health agency's governing body (*e.g.*, Board of Directors or Trustees), Chief Executive Officer (CEO), managers, clinicians, billing personnel, and other employees in the efficient management and operation of a home health agency. They are especially critical as an internal control in the reimbursement and payment areas, where claims and billing operations are often the source of fraud and abuse, and therefore, historically have been the focus of Government regulation, scrutiny, and sanctions.

It is incumbent upon a home health agency's corporate officers and managers to provide ethical leadership to the organization and to assure that adequate systems are in place to facilitate ethical and legal conduct. Employees, managers, and the Government will focus on the words and actions of a home health agency's leadership as a measure of the organization's commitment to compliance. Indeed, many home health agencies have adopted mission statements articulating their commitment to high ethical standards. A formal compliance program, as an additional element in this process, offers a home health agency a further concrete method that may improve quality of care and reduce waste. Compliance programs also provide a central coordinating mechanism for furnishing and disseminating information and guidance on applicable Federal and State statutes, regulations, and other requirements.

Implementing an effective compliance program requires a substantial commitment of time, energy, and resources by senior management and the home health agency's governing body.[3] Superficial programs that simply purport to comply with the elements discussed and described in this guidance or programs that are hastily constructed and implemented without appropriate ongoing monitoring will likely be ineffective and could expose the home health agency to greater liability than no program at all. While it may require significant additional resources or reallocation of existing resources to implement an effective compliance program, the OIG believes that the long term benefits of implementing the program outweigh the costs.[4]

*A. Benefits of a Compliance Program*

In addition to fulfilling its legal duty to ensure that it is not submitting false or inaccurate claims to Government and private payors, a home health agency may gain numerous additional benefits by voluntarily implementing an effective compliance program. Such programs make good business sense because they help a home health agency fulfill its fundamental care-giving mission to patients and the community, and assist home health agencies in identifying weaknesses in internal systems and management. Other important potential benefits include the ability to:

- Concretely demonstrate to employees and the community at large the home health agency's strong commitment to honest and responsible provider and corporate conduct;
- Provide a more accurate view of employee and contractor behavior relating to fraud and abuse;
- Identify and prevent illegal and unethical conduct;
- Tailor a compliance program to a home health agency's specific needs;
- Improve the quality, efficiency, and consistency of patient care;
- Create a centralized source for distributing information on health care statutes, regulations, and other program directives related to fraud and abuse and related issues;
- Formulate a methodology that encourages employees to report potential problems;
- Develop procedures that allow the prompt, thorough investigation of alleged misconduct by corporate officers, managers, employees, independent contractors, consultants, nurses, and other health care professionals;
- Initiate immediate, appropriate, and decisive corrective action;
- Minimize, through early detection and reporting, the loss to the Government from false claims, and thereby reduce the home health agency's exposure to civil damages and penalties, criminal sanctions, and administrative remedies, such as program exclusion;[5] and

[3] Recent case law suggests that the failure of a corporate Director to attempt in good faith to institute a compliance program in certain situations may be a breach of a Director's fiduciary obligation. See, *e.g.*, *In re Caremark International Inc. Derivative Litigation*, 698 A.2d 959 (Ct. Chanc. Del. 1996).

[4] Current Health Care Financing Administration (HCFA) reimbursement principles provide that certain of the costs associated with the creation of a voluntarily established compliance program may be allowable costs on certain types of home health agencies' cost reports. These allowable costs, of course, must at a minimum be *reasonable* and related to patient care. See generally 42 U.S.C. 1395x(v)(1)(A) (definition of reasonable cost); 42 CFR 413.9(a), (b)(2) (costs related to patent care). In contract, cost specifically associated with the implementation of a corporate integrity agreement in response to a Government investigation resulting in a civil or criminal judgment or settlement are unallowable, and are also made specifically and expressly unallowable in corporate integrity agreements and civil fraud settlements.

[5] The OIG, for example, will consider the existence of an *effective* compliance program that pre-dated any governmental investigation when addressing the appropriateness of administrative sanctions. The burden is on the provider to demonstrate the operational effectiveness of a compliance program. Further, the False Claims Act, 31 U.S.C. 3729–3733, provides that a person who

Continued

• Enhance the structure of home health agency operations and gain consistency between separate business units.

Overall, the OIG believes that an effective compliance program is a sound investment on the part of a home health agency.

The OIG recognizes that the implementation of a compliance program may not entirely eliminate fraud, abuse, and waste from the home health agency system. However, a sincere effort by home health agencies to comply with applicable Federal and State standards, as well as the requirements of private health care programs, through the establishment of an effective compliance program, significantly reduces the risk of unlawful or improper conduct.

*B. Application of Compliance Program Guidance*

Given the diversity within the industry, there is no single ''best'' home health agency compliance program. The OIG understands the variances and complexities within the home health industry and is sensitive to the differences among large national and regional multi-home health agency organizations, specialty home health agencies, small independent home health agencies, and other types of home health agency organizations and systems. However, elements of this guidance can be used by all home health agencies, regardless of size, location, or corporate structure, to establish an effective compliance program. Similarly, a hospital or corporation that owns a home health agency or provides home health services may incorporate these elements into its system-wide compliance or managerial structure. We recognize that some home health agencies may not be able to adopt certain elements to the same comprehensive degree that others with more extensive resources may achieve. This guidance represents the OIG's suggestions on how a home health agency can best establish internal controls and monitoring to correct and prevent fraudulent activities. By no means should the contents of this guidance be viewed as an exclusive discussion of the advisable elements of a compliance program.

The OIG believes that input and support by representatives of the major home health trade associations is critical to the development and success of this compliance program guidance. Therefore, in drafting this guidance, the OIG received and considered input from various home health and medical associations, as well as professional practice organizations. Further, we took into consideration previous OIG publications, such as Special Fraud Alerts, the recent findings and recommendations in reports issued by OIG's Office of Audit Services and Office of Evaluation and Inspections, as well as the experience of past and recent fraud investigations related to home health agencies conducted by OIG's Office of Investigations and the Department of Justice. As appropriate, this guidance may be modified and expanded as more information and knowledge is obtained by the OIG, and as changes in the law, rules, policies, and procedures of the Federal, State, and private health plans occur. New compliance practices may eventually be incorporated into this guidance if the OIG discovers significant enhancements to better ensure an effective compliance program.

The OIG recognizes that the development and implementation of compliance programs in home health agencies often raise sensitive and complex legal and managerial issues.[6] However, the OIG wishes to offer what it believes is critical guidance for providers who are sincerely attempting to comply with the relevant health care statutes and regulations.

## II. Compliance Program Elements

The elements proposed by these guidelines are similar to those of the Compliance Program Guidance for Hospitals that was published by the OIG in February 1998, the clinical laboratory compliance program guidance published by the OIG in February 1997,[7] and our corporate integrity agreements.[8] The elements represent a guide that can be tailored to fit the needs and financial realities of a particular home health agency.[9] The OIG is cognizant that, with regard to compliance programs, one model is not suitable to every home health agency. Nonetheless, the OIG believes that every home health agency, regardless of size or structure, can benefit from the principles espoused in this guidance.

The OIG believes that every effective compliance program must begin with a formal commitment by the home health agency's governing body to include all of the applicable elements listed below. These elements are based on the seven steps of the Federal Sentencing Guidelines.[10] Further, we believe that every home health agency can implement most of our recommended elements that expand upon the seven steps of the Federal Sentencing Guidelines. We recognize that full implementation of all elements may not be immediately feasible for all home health agencies. However, as a first step, a good faith and meaningful commitment on the part of the home health agency administration, especially the governing body and the CEO, will substantially contribute to a program's successful implementation. As the compliance program is implemented, that commitment should cascade down through the management of the home health agency to every employee at all levels in the organization.

At a minimum, comprehensive compliance programs should include the following seven elements:

(1) The development and distribution of written standards of conduct, as well as written policies and procedures that promote the home health agency's commitment to compliance (e.g., by including adherence to the compliance program as an element in evaluating managers and employees) and address specific areas of potential fraud, such as claims development and submission processes, cost reporting, and financial relationships with physicians and other health care professionals and entities;

(2) The designation of a compliance officer and other appropriate bodies, *e.g.*, a corporate compliance committee, charged with the responsibility for operating and monitoring the compliance program, and who reports

has violated the Act, but who voluntarily discloses the violation to the Government, in certain circumstances will be subject to not less than double, as opposed to treble, damages. See 31 U.S.C. 3729(a).

[6] Nothing stated within this document should be substituted for, or used in lieu of, competent legal advice from counsel.

[7] See 63 FR. 8987 (1998) for the Compliance Program Guidance for Hospitals. See 62 FR 9435 (1997) for the clinical laboratory compliance program guidance. These documents are also located on the Internet at http://www.dhhs.gov/progorg/oig.

[8] Corporate integrity agreements are executed as part of a civil settlement between the health care provider and the Government to resolve a case based on allegations of health care fraud or abuse. These OIG-imposed programs are in effect for a period of 3 to 5 years and require many of the elements included in this compliance program guidance.

[9] This is particularly true in the context of the home health industry, which includes many small independent home health agencies with limited financial resources and staff, as well as the larger multi-home health agency organizations and networks with extensive financial resources and staff.

[10] See United States Sentencing Commission Guidelines, *Guidelines Manual*, 8A1.2, Application Note 3(k). The Federal Sentencing Guidelines are detailed policies and practices for the Federal criminal justice system that prescribe the appropriate sanctions for offenders convicted of Federal crimes.

directly to the CEO and the governing body; [11]

(3) The development and implementation of regular, effective education and training programs for all affected employees;

(4) The creation and maintenance of a process, such as a hotline or other reporting system, to receive complaints, and the adoption of procedures to protect the anonymity of complainants and to protect whistleblowers from retaliation;

(5) The development of a system to respond to allegations of improper/illegal activities and the enforcement of appropriate disciplinary action against employees who have violated internal compliance policies, applicable statutes, regulations, or Federal health care program requirements; [12]

(6) The use of audits and/or other evaluation techniques to monitor compliance and assist in the reduction of identified problem areas;

(7) The investigation and remediation of identified systemic problems and the development of policies addressing the non-employment or retention of sanctioned individuals.

*A. Written Policies and Procedures*

Every compliance program should require the development and distribution of written compliance policies, standards, and practices that identify specific areas of risk and vulnerability to the home health agency. These policies, standards, and practices should be developed under the direction and supervision of, or subject to review by, the compliance officer and compliance committee and, at a minimum, should be provided to all individuals who are affected by the particular policy at issue, including the home health agency's agents and independent contractors.[13] In addition to these general corporate policies, it may be necessary to implement individual policies for independent components of the home health agency.

1. Standards of Conduct

Home health agencies should develop standards of conduct for all affected employees that include a clearly delineated commitment to compliance by the home health agency's senior management [14] and its divisions, including affiliated providers operating under the home health agency's [15] control and other health care professionals (*e.g.*, physical therapists, occupational therapists, speech therapists, and medical social workers). Standards should articulate the home health agency's commitment to comply with all Federal and State standards, with an emphasis on preventing fraud and abuse. They should explicitly state the organization's mission, goals, and ethical requirements of compliance and reflect a carefully crafted, clear expression of expectations for all home health agency governing body members, officers, managers, employees, clinicians, and, where appropriate, contractors and other agents. Standards should be distributed to, and comprehensible by, all affected employees (*e.g.*, translated into other languages when necessary and written at appropriate reading levels). Standards should not only address compliance with statutes and regulations, but should also set forth broad principles that guide employees in conducting business professionally and properly. Further, to assist in ensuring that employees continuously meet the expected high standards set forth in the code of conduct, any employee handbook delineating or expanding upon these standards of conduct should be regularly updated as applicable statutes, regulations, and Federal health care program requirements are modified and/or clarified.[16]

When they first begin working for the home health agency, and each time new standards of conduct are issued, employees should be asked to sign a statement certifying that they have received, read, and understood the standards of conduct. An employee's certification should be retained by the home health agency in the employee's personnel file, and available for review by the compliance officer.

2. Risk Areas

The OIG believes that a home health agency's written policies and procedures should take into consideration the particular statutes, rules, and program instructions that apply to each function or department of the home health agency.[17] Consequently, we recommend that the individual policies and procedures be coordinated with the appropriate training and educational programs with an emphasis on areas of special concern that have been identified by the OIG through its investigative and audit functions.[18] Some of the special areas of OIG concern include: [19]

[11] The integral functions of a compliance officer and a corporate compliance committee in implementing an effective compliance program are discussed throughout this compliance program guidance. However, the OIG recognizes that a home health agency may tailor the structure of those positions in consideration of the size and design of the home health agency, while endeavoring to address and accomplish all of the underlying objectives of a compliance officer and a corporate compliance committee.

[12] The term ''Federal health care programs'' is applied in this document as defined in 42 U.S.C. 1320a–7b(f), which includes any plan or program that provides health benefits, whether directly, through insurance, or otherwise, which is funded directly, in whole or in part, by the United States Government (i.e., via programs such as Medicare, Federal Employees' Compensation Act, Black Lund, or the Longshore and Harbor Worker's Compensation Act) or any State health plan (*e.g.*, Medicaid, or a program receiving funds from block grants for social services or child health services). Also, for the purposes of this document, the term ''Federal health care program requirements'' refers to the statutes, regulations, rules, requirements, directive, and instructions governing Medicare, Medicaid, and all other Federal health care programs.

[13] According to the Federal Sentencing Guidelines, an organization must have established compliance standards and procedures to be followed by its employees and other agents in order to receive sentencing credit for an ''effective'' compliance program. The Federal Sentencing Guidelines define ''agent'' as ''any individual, including a director, an officer, an employee, or an independent contractor, authorized to act on behalf of the organization.'' See United States Sentencing Commission Guidelines, *Guidelines Manual*, 8A1.2, Application Note 3.

[14] The OIG strongly encourages high-level involvement by the home health agency's governing body, chief executive officer, chief operating officer, general counsel, and chief financial officer, as well as other medical or clinical personnel, as appropriate, in the development of standards of conduct. Such involvement should help communicate a strong and explicit statement of compliance goals and standards.

[15] *E.g.*, pharmacies, other home health agencies, and supplemental staffing entities.

[16] The OIG recognizes that not all standards, policies, and procedures need to be communicated to all employees. However, the OIG believes that the bulk of the standards that relate to complying with fraud and abuse laws and other ethical areas should be addressed and made part of all affected employees' training. The home health agency must decide which additional educational programs should be limited to the different levels of employees, based on job functions and areas of responsibility.

[17] A home health agency can conduct focus groups composed of managers from various departments to solicit their concerns and ideas about compliance risks that may be incorporated into the home health agency's policies and procedures. Such employee participation in the development of the home health agency's compliance program can enhance its credibility and foster employee acceptance of the program.

[18] The OIG periodically issues Special Fraud Alerts setting forth activities believed to raise legal and enforcement issues. Home health agency compliance programs should require that the legal staff, compliance officer, or other appropriate personnel carefully consider any and all Special Fraud Alerts issued by the OIG that relate to home health agencies. Moreover, the compliance programs should address the ramifications of failing to cease and correct any conduct criticized in such a special Fraud Alert, if applicable to home health agencies, or to take reasonable action to prevent such conduct from reoccurring in the future. If appropriate, a home health agency should take the steps described in section G.2. regarding investigations, reporting, and correction of identified problems.

[19] The OIG's work plan is currently available on the Internet at http://www.dhhs.gov/progorg/oig.

Continued

- Billing for items or services not actually rendered; [20]
- Billing for medically unnecessary services; [21]
- Duplicate billing; [22]
- False cost reports; [23]
- Credit balances—failure to refund; [24]
- Home health agency incentives to actual or potential referral sources (*e.g.*, physicians, hospitals, patients, etc.) that may violate the anti-kickback statute or other similar Federal or State statute or regulation; [25]
- Joint ventures between parties, one of whom can refer Medicare or Medicaid business to the other; [26]
- Stark physician self-referral law; [27]
- Billing for services provided to patients who are not confined to their residence (or ''homebound''); [28]
- Billing for visits to patients who do not require a qualifying service; [29]
- Over-utilization [30] and under-utilization; [31]
- Knowing billing for inadequate or substandard care;
- Insufficient documentation to evidence that services were performed and to support reimbursement;
- Billing for unallowable costs of home health coordination; [32]
- Billing for services provided by unqualified or unlicensed clinical personnel;
- False dating of amendments to nursing notes;
- Falsified plans of care; [33]
- Untimely and/or forged physician certifications on plans of care;
- Forged beneficiary signatures on visit slips/logs that verify services were performed;
- Improper patient solicitation activities and high-pressure marketing of uncovered or unnecessary services; [34]
- Inadequate management and oversight of subcontracted services, which results in improper billing;
- Discriminatory admission and discharge of patients;
- Billing for unallowable costs associated with the acquisition and sale of home health agencies;
- Compensation programs that offer incentives for number of visits performed and revenue generated; [35]
- Improper influence over referrals by hospitals that own home health agencies;
- Patient abandonment in violation of applicable statutes, regulations, and Federal health care program requirements; [36]

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The OIG Work Plan details the various projects of the Office of Audit Services, Office of Evaluation and Inspections, Office of Investigations, and Office of Counsel to the Inspector General that are planned to be addressed during each Fiscal Year.

[20] Billing for services not actually rendered involves submitting a claim that represents the provider performed a service all or part of which was simply not performed. This form of billing fraud occurs in many health care entities, including home health agencies, hospitals, laboratories, and nursing homes, and represents a significant part of the OIG's investigative caseload.

[21] Billing for medically unnecessary services involves knowingly seeking reimbursement for a service that is not warranted by the patient's current and documented medical condition. *See* 42 U.S.C. § 1395y(a)(1)(A) (''no payment may be made under part A or part B [of Medicare] for any expenses incurred for items or services which * * * are not reasonable and necessary for the diagnosis or treatment of illness or injury or to improve the functioning of the malformed body member''). Upon submission of an HCFA claim form (whether paper or electronic), a home health agency certifies that the services provided and billed were medically necessary for the health of the beneficiary, and were rendered in accordance with orders prescribed by the beneficiary's physician. See also discussion in section II.A.3.a and accompanying notes.

[22] Duplicate billing occurs when the home health agency submits more than one claim for the same service or the bill is submitted to more than one primary payor at the same time. Although duplicate billing can occur due to simple error, knowing, duplicate billing—which is sometimes evidenced by systematic or repeated double billing—can create liability under criminal, civil, or administrative law, particularly if any overpayment is not promptly refunded.

[23] The submission of false cost reports is usually limited to certain Medicare Part A providers, such as home health agencies, hospitals, and skilled nursing facilities, which are reimbursed in part on the basis of their self-reported operating costs. The OIG is aware of practices in which home health agencies maintain records that indicate salaries are paid to employees that do not exist, lump nonpatient-related expenses with patient-related ones in an attempt to bury the non-reimbursable costs, bill Medicare for patient visits with no records to substantiate that the services were performed, inappropriately shift certain costs to cost centers that are below their reimbursement cap, shift non-Medicare related costs to Medicare cost centers, and fail to properly disclose related organizations (see 42 CFR 413.17(b)), *e.g.*, entities that provide leased space or equipment, financial management consulting, and direct patient services and supplies.

[24] A credit balance is an improper or excess payment made to a health care provider as a result of patient billing or claims processing errors. Examples of Medicare credit balances include instances where a provider is: (1) Paid twice for the same service either by Medicare or by Medicare and another insurer; or (2) paid for services planned but not performed or for non-covered services. See Home Health Agency Manual § 489. Home health agencies should institute procedures to provide for the timely and accurate reporting of Medicare and other Federal health care program credit balances.

[25] Examples of arrangements that may run afoul of the anti-kickback statute include practices in which a home health agency pays a fee to a physician for each plan of care certified, provides items or services for free or below fair market value to beneficiaries of Federal health care programs, provides nursing or administrative services for free or below fair market value to physicians, hospitals and other potential referral sources, and provides salaries to a referring physician for services either not rendered or in excess of fair market value for services rendered. See 42 U.S.C. 1320a–7b; 60 FR 40, 847 (1995). See also discussion in section II.A.4. and accompanying notes.

[26] Equally troubling to the OIG is the proliferation of business arrangements that may violate the anti-kickback statute. Such arrangements are generally established between those in a position to refer business, such as physicians, and those providing items or services for which a Federal health care program pays. Sometimes established as ''joint ventures,'' these arrangements may take a variety of forms. The OIG currently has a number of investigations and audits underway that focus on such areas of concern.

[27] Under the Stark physician self-referral law, if a physician (or an immediate family member of such physician) has a financial relationship with a home health agency, the physician may not make a referral to the home health agency for the furnishing of home health services for which payment may be made under the Federal health care programs. See 42 U.S.C. 1395nn.

[28] See discussion in section II.A.3.b. and accompanying notes.

[29] See discussion in section II.A.3.d. and accompanying notes.

[30] Physicians often rely on home health agencies to determine the need, type, and frequency of home health services provided to a beneficiary. Since Medicare does not limit the number of visits or the length of home health coverage for an individual beneficiary, home health agencies have incentives to furnish as many visits as possible, which can lead to over-utilization. Although it is a physician that determines medical necessity, a home health agency has an obligation to ensure that services it provides are medically necessary, and should consult with physicians as appropriate for the requisite assurances.

[31] In other words, knowing denial of needed care in order to keep costs low.

[32] Home health coordination is intended to manage and facilitate the transfer of patients from a hospital or skilled nursing facility to the care of a home health agency. Although some costs of performing this service may be allowable under Medicare, the costs of services performed by home health agency personnel that constitute patient solicitation or activities duplicative of an institution's discharge planning responsibilities are not allowable. These non-reimbursable activities, as well as the allowable costs of performing home health coordination, are more specifically described in the Provider Reimbursement Manual, Part I, § 2113. Further, the OIG's Home Health Fraud Alert of June 1995 specifically warned home health agencies that providing hospitals with discharge planners, home health coordinators, or home care liaisons in order to induce referrals can constitute a kickback.

[33] See discussion in section II.A.3.c. and accompanying notes.

[34] Home health agencies should not utilize prohibited or inappropriate conduct (*e.g.*, offer free gifts or services to patients) to carry out their initiatives and activities designed to maximize business growth and patient retention. Also, any marketing information offered by home health agencies should be clear, correct, non-deceptive, and fully informative.

[35] The current nature of the home health benefit (*i.e.*, no limits on reimbursable home health visits in a cost-reimbursed system) and customary business pressures create risks associated with incentives (*e.g.*, payments benefits, etc.) for productivity and volume of services. Such risks include over-utilization and billing for services not provided in order to meet internal goals and budget benchmarks imposed by home health agency management.

[36] Under the Medicare conditions of participation, a home health agency has the duty to fully inform a beneficiary in advance of termination of services when further care or treatment is necessary. See generally 42 U.S.C. 395bbb. Moreover, State licensure statutes and regulations may stipulate additional requirements (*e.g.*, the minimum time period of advance notice allowed) that home health agencies must follow when

• Knowing misuse of provider certification numbers, which results in improper billing;

• Duplication of services provided by assisted living facilities, hospitals, clinics, physicians, and other home health agencies;

• Knowing or reckless disregard of willing and able caregivers when providing home health services; [37]

• Failure to adhere to home health agency licensing requirements and Medicare conditions of participation; [38] and

• Knowing failure to return overpayments made by Federal health care programs. A home health agency's prior history of noncompliance with applicable statutes, regulations, and Federal health care program requirements may indicate additional types of risk areas where the home health agency may be vulnerable and that may require necessary policy measures to be taken to prevent avoidable recurrence.[39] Additional risk areas should be assessed by home health agencies as well and incorporated into the written policies and procedures and training elements developed as part of their compliance programs.

3. Claim Development and Submission Process

Of the risk areas identified above, those pertaining to the claim development and submission process have been the frequent subject of administrative recoveries, as well as investigations and prosecutions under the civil False Claims Act and criminal statutes. Settlement of these cases often has required the defendants to execute corporate integrity agreements, in addition to paying significant civil damages and/or criminal fines and penalties. These corporate integrity agreements have provided the OIG with a mechanism to specify practices that help ensure compliance with applicable Federal and State statutes, and Federal health care program requirements. The following recommendations include a number of provisions from various corporate integrity agreements. As previously discussed, each home health agency should develop its own specific policies tailored to fit its individual needs.

With respect to the reimbursement process, a home health agency's written policies and procedures should reflect and reinforce current Federal health care requirements regarding the submission of claims and Medicare cost reports. The policies must create a mechanism for the billing or reimbursement staff to communicate effectively and accurately with the clinical staff. Policies and procedures should:

• Provide for sufficient and timely documentation of all nursing and other home health services, including subcontracted services, *prior* to billing to ensure that only accurate and properly documented services are billed;

• Emphasize that a claim should be submitted only when appropriate documentation supports the claim and only when such documentation is maintained, appropriately organized in a legible form, and available for audit and review. The documentation should record the activity leading to the record entry, the identity of the individual providing the service, and any information needed to support medical necessity and other applicable reimbursement coverage criteria. The home health agency should consult with its medical director(s), clinical staff, and/or governing body to establish other appropriate documentation guidelines;

• Indicate that the diagnosis and procedure codes for home health services reported on the reimbursement claim should be based on the patient's medical record and other documentation, as well as comply with all applicable official coding rules and guidelines. Any Health Care Financing Administration Common Procedure Coding System (HCPCS), International Classification of Disease (ICD), Home Health Agency's Current Procedural Terminology (CPT), or revenue code (or successor codes) used by the billing staff should accurately describe the service that was ordered by the physician and performed by the home health agency. The documentation necessary for accurate billing should be available to billing staff;

• Provide that the compensation for billing department personnel and billing consultants should not offer any financial incentive to submit claims regardless of whether they meet applicable coverage criteria for reimbursement or accurately represent the services rendered; and

• Establish and maintain a process for pre-and post-submission review of claims [40] to ensure that claims submitted for reimbursement accurately represent medically necessary services actually provided, supported by sufficient documentation, and in conformity with any applicable coverage criteria for reimbursement.[41]

The written policies and procedures concerning proper billing should reflect the current reimbursement principles set forth in applicable regulations [42] and should be developed in tandem with private payor and organizational standards. Particular attention should be paid to issues associated with medical necessity, homebound status of beneficiary, physician certification of plan of care, and qualifying services to establish coverage eligibility.[43]

*a. Medical necessity—Reasonable and necessary services.* A home health agency's compliance program should provide that claims should only be

terminating the services provided to a patient. The risk of abandonment may arise when a home health agency attempts to keep costs of providing services low.

[37] According to Medicare reimbursement principles, where a family member or other person is or will be providing services that adequately meet a patient's needs, it is not reasonable and necessary for a home health agency to furnish such services. Therefore, if a home health agency has first hand knowledge of an able and willing person to provide the services being rendered by the home health agency, or a patient (or patient's family) objects to a home health agency providing such services, the home health agency should neither provide nor bill for such services. See Home Health Agency Manual § 203.2.

[38] See 42 U.S.C. 1395bbb for the Medicare conditions of participation that apply to home health agencies.

[39] ''Recurrence of misconduct similar to that which an organization has previously committed casts doubt on whether it took all reasonable steps to prevent such misconduct'' and is a significant factor in the assessment of whether a compliance program is effective. See United States Sentencing Commission Guidelines, *Guidelines Manual.* 8A1.2, Application Note 3(k)(iii).

[40] The OIG recommends that, at a minimum, a valid statistical sample of claims should be reviewed before and after billing is submitted.

[41] *E.g.,* plan of care is dated and signed by a physician, beneficiary is homebound, skilled service is required, finite and predictable endpoint exists and is documented for skilled nursing services is excess of 35 hours of per week, etc. 42 U.S.C. 1395m(x); 42 CFR 424.22; Home Health Agency Manual § 204.

[42] The official reimbursement coverage guidelines for participating providers in the Medicare program are promulgated by HCFA in the Provider Reimbursement Manual and the Home Health Agency Manual. Generally, to qualify for the home health benefit covered by Medicare, individuals must be confined to their residences (be ''homebound''), be under a physician's care, and need part-time or intermittent skilled nursing care and/or physical or speech therapy. See Home Health Agency Manual § 204 entitled ''Conditions the Patient Must Need to Qualify for Coverage of Home Health Services.''

[43] The OIG undertaken numerous audits, investigations, inspections, and national enforcement initiatives aimed at reducing potential and actual fraud, abuse, and waste. For example, OIG audit reports, which have focused on issues such as home health agency billing for services not authorized by a physician, not medically necessary, not eligible for reimbursement, not rendered, and for unallowable general and administrative costs, continue to reveal abusive, wasteful or fraudulent behavior by some home health agencies. Our report on the practices of problem providers, our Operation Restore Trust Audit Report of July 1997, and our special fraud alert on home health fraud, illustrate how certain home health agency billing and business practices may result in fraudulent and abusive behavior.

submitted for services that the home health agency has reason to believe are medically necessary and were ordered by a physician [44] or other appropriately licensed individual.

As a preliminary matter, the OIG recognizes that licensed health care professionals must be able to order any services that are appropriate for the treatment of their patients. However, Medicare and other Government and private health care plans will only pay for those services otherwise covered that meet appropriate medical necessity standards (*i.e.*, in the case of Medicare, ''reasonable and necessary'' services). Providers may not bill for services that do not meet the applicable standards.[45] The home health agency is in a unique position to deliver this information to the health care professionals on its staff and to the physicians who refer patients. Upon request, a home health agency must be able to provide documentation, such as physician orders and other patient medical records, to support the medical necessity of a service that the home health agency has provided.[46] The compliance officer should ensure that a clear, comprehensive summary of the ''medical necessity'' definitions and applicable rules of the various Government and private plans is prepared, disseminated, and explained to appropriate home health agency personnel.[47]

We recommend that home health agencies formulate policies and procedures that include periodic clinical reviews, both prior and subsequent to billing for services, as a means of verifying that patients are receiving only medically necessary services. As part of such reviews, home health agencies should examine the frequency and duration of the services they perform to determine, in consultation with a physician, whether patients' medical conditions justify the number of visits provided and billed. Home health agencies may choose to incorporate this clinical review function into pre-existing quality assurance mechanisms or any other quality assurance processes that may become part of the conditions of participation for home health agencies.

Additionally, home health agencies should implement policies and procedures to verify that beneficiaries have actually received the appropriate level and number of services billed. The OIG believes that a home health agency has a duty to sufficiently monitor services its employees provide to patients for confirmation that all services were provided as claimed.[48] To satisfy such an objective, home health agencies may choose to periodically contact (*i.e.*, via mail, telephone, or in person) a random sample of patients and interview the clinical staff involved.

*b. Homebound beneficiaries.* For a home health agency to receive reimbursement for home health services under either Medicare Part A or Part B, the beneficiary must be ''confined to the home.'' [49] Home health agencies should create oversight mechanisms to ensure that the homebound status of a Medicare beneficiary is verified and the specific factors qualifying the patient as homebound are properly documented.[50] Any determinative assessment of the homebound status of a Medicare beneficiary should be completed prior to billing Medicare for home health services provided to the beneficiary.[51] As with other conditions for Medicare coverage, a physician must certify that the beneficiary was confined to the home at the time when services were provided.[52]

One means by which home health agencies may verify the homebound status of a Medicare beneficiary is the inclusion of written prompts on nursing note forms. These prompts can direct the home health agency's clinicians (*e.g.*, registered nurse or licensed practical nurse) to adequately assess and document the homebound status of a Medicare beneficiary based upon clinical expertise, consultation with the beneficiary, and orders of the attending physician.[53] Carefully designed prompts on nursing note forms may help ensure the complete and appropriate documentation necessary to substantiate the homebound status of a Medicare beneficiary for reimbursement purposes.

Home health agencies can further ensure compliance with the homebound requirement by distributing written notices to Medicare beneficiaries, reminding them that they must satisfy the regulatory requirements for homebound status to be eligible for Medicare coverage. Since the Medicare conditions of participation require home health agencies to give all beneficiaries a written notice of their legal rights before furnishing them with home health services, providers can include reminders of homebound requirements in these notices.[54]

*c. Physician certification of the plan of care.* A home health agency should take all reasonable steps to ensure that claims for home health services are ordered and authorized by a physician.[55] The home health agency's

[44] For Medicare reimbursement purposes, a plan for furnishing home health services must be certified by a physician who is a doctor of medicine, osteopathy, or podiatric medicine, and who does not have a significant ownership interest in, or a significant financial or contractual relationship with, the home health agency. See 42 CFR 424.22.

[45] Civil monetary penalties and administrative sanctions, as well as remedies available under criminal and civil law, including the civil False Claims Act, may be imposed against any person who submits a claim for services ''that [the] person knows or should know are not medically necessary.'' See 42 U.S.C. 1320a–7a(a).

[46] Medicare fiscal intermediaries and carriers have the authority to require home health agencies, which furnish items or services under the program, to submit documentation that substantiates services are actually provided and medically necessary. See Medicare Intermediary Manual § 3116.1.B.

[47] As it applies to private plan requirements, this compliance function may be delegated to supervisory personnel with suitable oversight by the compliance officer.

[48] A home health agency may consider including attestations on nursing note forms to be signed by caregivers for the purpose of reinforcing the importance of accurate documentation of services performed and billed.

[49] Title XVIII of the Social Security Act, § 1861(m), 42 U.S.C. 1395×(m), authorizes the provision of home health services to patients who are confined to their home (or homebound). In general, a patient will be considered to be homebound if the patient has a condition due to an illness or injury that restricts the patient's ability to leave his or her place of residence except with the aid of supportive devices such as crutches, canes, wheelchairs, and walkers, or the assistance of another person or if leaving home is medically contraindicated. The condition of these patients should be such that there exists a normal inability to leave the home and, consequently, leaving home would require a considerable and taxing effort. See Home Health Agency Manual § 204.1. HHS plans to submit a report to Congress by October 1, 1998, recommending criteria that should be applied, and the method of applying such criteria, in the determination of whether an individual is homebound for Medicare reimbursement purposes. See Balanced Budget Act of 1997, Pub. L. 105–33, § 4614. Any new criteria developed by HHS should be incorporated into the public applicable policies and procedures of a home health agency.

[50] Recent audits, investigations, and studies of home health agencies have concluded that many home health agencies have billed Medicare for services provided to beneficiaries who are not homebound. See note 43.

[51] If a question is raised as to whether a patient is confined to the home, the home health agency will be requested to furnish its Medicare fiscal intermediary with the information necessary to establish that the patient is homebound. Home Health Agency Manual § 204.1.

[52] 42 CFR 424.22(a)(1)(ii).

[53] These prompts can be in the form of directions (e.g., ''Consult with the patient and physician as to the patient's ability to leave the home.'') or questions (*e.g.*, ''Does the patient ever leave the home, and if so, where does the patient go and how often? Does the patient require supportive devices to leave the home?'').

[54] See 42 CFR 484.10(a)(1).

[55] As a condition for payment of home health services by Medicare, a physician must certify that a plan for furnishing the services has been established and is periodically reviewed by a physician. 42 CFR 424.22(a) and (b); Home Health Agency Manual § 204.2 If employees of a home health agency believe that services ordered by a physician are excessive or otherwise inappropriate, the home health agency cannot avoid liability for filing improper claims simply because a physician

written policies and procedures should require, at a minimum, that:

• Before the home health agency bills for services provided to a beneficiary, the plan of care [56] must be established, dated, and signed by a qualified physician; [57]

• The plan of care must be periodically reviewed by a physician in order for the beneficiary to continue to qualify for Medicare coverage of home health benefits; [58]

• Home health services are only billed if the home health agency is acting upon a physician's certification attesting that the services provided to a patient are medically necessary and meet the requirements for home health services to be covered by Medicare; [59]

• When consulted, the home health agency assists the physician in determining the medical necessity of home health services and formulating an appropriate and certified plan of care; [60]

• The home health agency properly documents any assessment it has made of a beneficiary's home health needs, which may be used by a physician in developing and authorizing a plan of care; and

• The home health agency reminds or educates physicians, as appropriate, about the scope of their duty to certify patients for home health services to be reimbursed by Medicare.[61]

*d. Lack of qualifying service.* In addition to addressing the issues associated with other reimbursement coverage criteria, a home health agency's policies and procedures should ensure that all claims satisfy the requisite need of a qualifying service.[62] Since reimbursement coverage of services by other disciplines may depend on the need and the provision of the qualifying service, [63] it is critical for a home health agency to enlist measures to prevent billing for dependent services after any qualifying service has ceased.[64] Any procedures or practices that a home health agency may implement in response to this identified risk will most likely correspond with other policy measures taken by the home health agency to ensure medical necessity.

*e. Cost reports.* In addition to submitting claims for specific services, home health agencies submit annual cost reports to Medicare for reimbursement of administrative, overhead, and other general costs. With regard to cost report issues, the written policies should include procedures that seek to ensure full compliance with applicable statutes, regulations, and Federal health care program requirements. Among other things, the home health agency's procedures should ensure that:

• Costs are not claimed unless they are reimbursable, reasonable, and are based on appropriate and accurate documentation;

• Allocations of costs to various cost centers are accurately made and supportable by verifiable and auditable data;

• Unallowable costs are not claimed for reimbursement; [65]

• Accounts containing both allowable and unallowable costs are analyzed to determine the unallowable amount that should not be claimed for reimbursement;

• Costs are properly classified; [66]

• Medicare fiscal intermediary prior year audit adjustments are implemented and are either not claimed for reimbursement or if claimed for reimbursement, are clearly identified as protested amounts on the cost report;

• All related parties are identified on the cost report and all related party charges are reduced to the cost to the related party;

• Allocations from a home health agency chain's home office cost statement to individual home health agency cost reports are accurately made

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has ordered the services. Medicare, through certifications that are incorporated into the claim forms (paper or electronic) and ratified by home health agencies upon submission, imposes a duty to investigate the truth, accuracy, and completeness of claims before they are submitted. To illustrate, the HCFA–1500 claim form states that the person submitting the form certifies ''the services shown on the[e] form were medically necessary for the health of the patient.''

[56] The Home Health Agency Manual uses the term ''plan of care'' to refer to the medical treatment plan established by the treating physician with the assistance of the home health care nurse. Among other things, the plan of care must contain all pertinent diagnoses, including the patient's mental status, the types of services, supplies, and equipment required, the frequency of visits to be made, prognosis, rehabilitation potential, functional limitations, activities permitted, nutritional requirements, and all medications and treatments. See Home Health Agency Manual § 204.2. The plan of care is presented in writing on the HCFA–485 form entitled ''Home Health Certification and Plan of Treatment.''

[57] The home health agency should employ reasonable measures to verify that the physician is appropriately licensed and no adverse actions, such as criminal conviction, debarment, or an exclusion, have been taken against the physician.

[58] The plan of care must be reviewed and signed by the physician who established the plan of care, in consultation with the home health agency professional personnel, at least every 62 days. Each review of a patient's plan of care must contain the signature of the physician and the date of review. 42 C.F.R. § § 424.22(a), (b); Home Health Agency Manual § 204.2.F.

[59] The physician must certify that: (1) The patient is confined to the home; (2) the patient is in need of intermittent skilled nursing care, physical therapy and/or speech therapy or continues to need occupational therapy; (3) the patient is under the care of the physician while the services are or were furnished; and (4) a plan of care has been established and is periodically reviewed by the physician. *See* Home Health Agency Manual § 204.5 and the HCFA–485 form.

[60] In practice, home health agencies often accept the responsibility of assessing a beneficiary's status and completing the HCFA–485 plan of care form for approval by a physician. In the July 1997 OIG Audit Report (A–04–96–02121) entitled, ''Results of the Operation Restore Trust Audit of Medicare Home Health Services in California, Illinois, New York, and Texas'' (hereinafter ''OIG ORT Report''), the OIG concluded that physicians did not always review or actively participate in developing the plans of care they signed, especially for less complex cases. The report found that physicians relied heavily on home health agencies to make determinations as to homebound status, as well as the need, type, and frequency of home health services without physician participation. Since such lack of physician involvement may likely result in non-covered services, it is advisable that home health agencies undertake all reasonable efforts to procure sufficient physician consultation to ensure that an appropriate plan of care is established for medically necessary services.

[61] This can be accomplished through provider education and liaison activities with physicians and physician support personnel. See Provider Reimbursement Manual § 2113.4

[62] Among other criteria, to receive Medicare reimbursement for home health services, a beneficiary must have a need for skilled nursing care on an intermittent basis, physical therapy, speech-language pathology services, or a continuing need for occupational therapy. *See* Home Health Agency Manual § 205. To qualify as skilled nursing services, the services must require the skills of a registered nurse or a licensed practical (vocational) nurse under the supervision of a registered nurse, must be reasonable and necessary to the treatment of the patient's illness or injury, and must be intermittent (as discussed in Home Health Agency Manual, § 206.7). Where a service can be safely and effectively performed (or self-administered) by the average nonmedical person without the direct supervision of a licensed nurse, the service cannot be regarded as a skilled service even if a skilled nurse actually provides the service. Home Health Agency Manual § 205.1 A.2.

[63] If an eligible beneficiary requires a qualifying service, Medicare also covers visits by home health aides, medical social workers, and occupational therapists, as well as medical supplies needed and used. Hands-on personal care services, such as bathing, feeding, and assistance with medications, are services customarily performed by home health aides in conjunction with a qualifying service. However, a beneficiary who needs only this type of personal or custodial care does not qualify for the home health benefit. Consequently, with no allowable skilled services, the home health aide services are also not medically necessary or reasonable. See Home Health Agency Manual § 206.2.

[64] Recent audits conducted by the OIG have revealed several instances where home health agencies have submitted substantial numbers of claims for home health aide visits to beneficiaries that did not require any skilled qualifying service. *See* OIG ORT Report.

[65] For administrative, overhead, and other general costs to be allowable under Medicare, regulations require that they be reasonable, necessary for the maintenance of the health care entity, and related to patient care. 42 CFR 413.9; see also Provider Reimbursement Manual, Chapter 21.

[66] *E.g.*, time must be accurately split between reimbursable home health coordination and non-reimbursable patient solicitation activities (see note 32), and between visits to Medicare beneficiaries and visits to non-Medicare beneficiaries.

and supportable by verifiable and auditable data;

• Management fees are reasonable and necessary, and do not include unallowable costs, such as certain acquisition costs associated with the purchase of a home health agency (*e.g.*, good will, non-competes);

• Any return of overpayments, including those resulting from an internal review or audit, are appropriately reflected in cost reports, *i.e.*, a repayment of an overpayment received in a prior year may necessitate changes or amendments to the cost report applicable to the prior year; and

• Procedures are in place and documented for notifying promptly the Medicare fiscal intermediary (or any other applicable payor, *e.g.*, TRICARE (formerly CHAMPUS) and Medicaid) in writing of errors discovered after the submission of the home health agency cost report, and, where applicable, after the submission of a home health agency chain's home office cost statement.

*f. Services provided to patients who reside in assisted living facilities.* Home health agencies should formulate effective policies and procedures to evaluate home health services provided to individuals who reside in assisted living facilities (also called residential care facilities, personal care homes, group homes, etc.) to determine whether the services are appropriate for reimbursement.[67] To avoid the submission of improper claims for services to such individuals, the adoption of the following measures is advisable upon a request to provide home health services to a resident of an assisted living facility:

• Contact the appropriate State licensing authority to determine any applicable State licensure and service requirements for the specific facility involved;

• Make reasonable attempts to verify the specific license, if any, held by the facility, *e.g.*, view the license certificate hanging on the facility's wall;

• Request to view the service agreement between the facility and the resident during the initial assessment visit to determine the extent and type of the services that the facility is contractually obligated to provide to the resident; and

• Provide home health services to the resident only to the extent that they are appropriate and not duplicative of those services provided or required to be provided by the facility.[68]

The OIG strongly recommends that a home health agency contact the appropriate State licensing authority if there is reason to believe a State-licensed facility is failing to provide care that is required by its licensure, regardless of whether claims for services provided to residents of such facilities would otherwise be reimbursable by Medicare or another Federal health care program.

*g. Prospective payment system.* The Balanced Budget Act of 1997 provides for the establishment of a prospective payment system (PPS) for all costs of home health services. Upon the commencement of such system, all services covered and paid on a reasonable cost basis under the Medicare home health benefit, including medical supplies, will be paid for on the basis of a computed prospective payment amount.[69] Once HHS institutes the PPS, home health agencies should guard against new types of fraud, abuse, and waste that might arise in such a reimbursement system. Potential risks may include failure to report or mischaracterization of a change in patient conditions used to establish the PPS charge, denial of medically necessary care resulting in under-utilization, and duplicate billing of charges subsumed within the PPS payment. Accordingly, home health agencies should prepare to implement policies and procedures to properly address any potential risk areas associated with the PPS.

4. Anti-Kickback and Self-Referral Concerns

The home health agency should have policies and procedures in place with respect to compliance with Federal and State anti-kickback statutes, as well as the Stark physician self-referral law.[70] Such policies should provide that:

• All of the home health agency's contracts and arrangements with actual or potential referral sources are reviewed by counsel and comply with all applicable statutes and regulations; [71]

• The home health agency does not submit or cause to be submitted to the Federal health care programs claims for patients who were referred to the home health agency pursuant to contracts or financial arrangements that were designed to induce such referrals in violation of the anti-kickback statute, Stark physician self-referral law, or similar Federal or State statute or regulation; and

• The home health agency does not offer or provide gifts, free services, or other incentives to patients, relatives of patients, physicians, hospitals, contractors, assisted living facilities, or other potential referral sources for the purpose of inducing referrals in violation of the anti-kickback statute, Stark physician self-referral law, or similar Federal or State statute or regulation.[72]

Further, the policies and procedures should specifically reference and take into account the OIG's safe harbor regulations, which clarify those payment practices that would be immune from prosecution under the anti-kickback statute.[73]

5. Retention of Records

Home health agency compliance programs should provide for the implementation of a records system. This system should establish policies and procedures regarding the creation, distribution, retention, storage, retrieval, and destruction of documents.[74] The three categories of documents developed under this system should include: (1) All records and documentation (*e.g.*, clinical and

[67] Individuals who reside in assisted living facilities may be eligible for Medicare coverage of home health services. See Home Health Agency Manual § 204.1B. However, if it is determined that the services furnished by the home health agency are duplicative of services furnished by an assisted living facility, such as when provision of such care is required of the facility under State licensure requirements, claims for such services are unallowable under 42 U.S.C. 1395y(a)(1)(A) and should not be submitted. Services to people who already have access to appropriate care from a willing caregiver would not be considered reasonable and necessary to the treatment of the individual's illness or injury. See Home Health Agency Manual § 203.2. See also note 37.

[68] Audits and investigations by both the OIG and Medicare fiscal intermediaries have revealed several instances where home health aids of home health agencies have provided personal care services, such as meal preparation, room cleaning, and bathing, to Medicare beneficiaries who reside in assisted living facilities required by State license to provide such services. In addition to the customary liability assumed by a home health agency for submitting claims for such duplicative and unallowable services, a home health agency may violate the anti-kickback statute for providing these services at no charge to an assisted living facility, an entity that is responsible to perform the services and is a potential source of referrals.

[69] *See* Balanced Budget Act of 1997, Pub. L. 105–33, § 4603.

[70] Towards this end, the home health agency's in-house counsel or compliance officer should, among other things, obtain copies of all relevant OIG regulations, special fraud alerts, and advisory opinions (these documents are located on the Internet at http://www.dhhs.gov/progorg/oig), and ensure that the home health agency's policies reflect the guidance provided by the OIG.

[71] In addition to the anti-kickback statutes and the Stark physician self-referral law provisions, 42 CFR 424.22 expressly prohibits a home health agency from providing services certified or recertified by any physician who has a significant ownership interest in, or a significant financial or contractual relationship with, that home health agency.

[72] See 42 U.S.C. 1320a–7b(b); 60 FR 40847 (1995).

[73] See 42 CFR 1001.952.

[74] This records system should be tailored to fit the individual needs and financial resources of the home health agency.

medical records, and billing and claims documentation) required either by Federal or State law for participation in Federal health care programs [75] or any other applicable Federal and State laws and regulations (*e.g.*, document retention requirements to maintain State licensure); (2) all records, documentation, and verifiable and auditable data that support the home health agency's Medicare cost report, and, where applicable, the home health agency chain's home office cost statement; and (3) all records necessary to protect the integrity of the home health agency's compliance process and confirm the effectiveness of the program. The third category includes: documentation that employees were adequately trained; reports from the home health agency's hotline, including the nature and results of any investigation that was conducted; documentation of corrective action, including disciplinary action taken and policy improvements introduced, in response to any internal investigation or audit; modifications to the compliance program; self-disclosures; and the results of the home health agency's auditing and monitoring efforts.[76]

6. Compliance as an Element of a Performance Plan

Compliance programs should require that the promotion of, and adherence to, the elements of the compliance program be a factor in evaluating the performance of all employees, who should be periodically trained in new compliance policies and procedures. In addition, all managers and supervisors involved in the claims and cost report development and submission processes should:

- Discuss with all supervised employees and relevant contractors the compliance policies and legal requirements pertinent to their function;
- Inform all supervised personnel that strict compliance with these policies and requirements is a condition of employment; and
- Disclose to all supervised personnel that the home health agency will take disciplinary action up to and including termination for violation of these policies or requirements.

In addition to making performance of these duties an element in evaluations, the compliance officer or home health agency management should include in the home health agency's compliance program a policy that managers and supervisors will be sanctioned for failing to adequately instruct their subordinates or for failing to detect noncompliance with applicable policies and legal requirements, where reasonable diligence on the part of the manager or supervisor would have led to the discovery of any problems or violations and given the home health agency the opportunity to correct them earlier.

*B. Designation of a Compliance Officer and a Compliance Committee*

1. Compliance Officer

Every home health agency should designate a compliance officer to serve as the focal point for compliance activities. This responsibility may be the individual's sole duty or added to other management responsibilities, depending upon the size and resources of the home health agency and the complexity of the task. Designating a compliance officer with the appropriate authority is critical to the success of the program, necessitating the appointment of a high-level official in the home health agency with direct access to the home health agency's president or CEO, governing body, all other senior management, and legal counsel.[77] The officer should have sufficient funding and staff to perform his or her responsibilities fully. Coordination and communication are the key functions of the compliance officer with regard to planning, implementing, and monitoring the compliance program.

The compliance officer's primary responsibilities should include:

- Overseeing and monitoring the implementation of the compliance program; [78]
- Reporting on a regular basis to the home health agency's governing body, CEO, and compliance committee (if applicable) on the progress of implementation, and assisting these components in establishing methods to improve the home health agency's efficiency and quality of services, and to reduce the home health agency's vulnerability to fraud, abuse, and waste;
- Periodically revising the program in light of changes in the organization's needs, and in the law and policies and procedures of Government and private payor health plans;
- Reviewing employees' certifications that they have received, read, and understood the standards of conduct;
- Developing, coordinating, and participating in a multifaceted educational and training program that focuses on the elements of the compliance program, and seeks to ensure that all relevant employees and management are knowledgeable of, and comply with, pertinent Federal and State standards;
- Ensuring that independent contractors and agents who furnish nursing or other health care services to the clients of the home health agency, or billing services to the home health agency, are aware of the requirements of the home health agency's compliance program with respect to coverage, billing, and marketing, among other things;
- Coordinating personnel issues with the home health agency's Human Resources/Personnel office (or its equivalent) to ensure that the National Practitioner Data Bank [79] and Cumulative Sanction Report [80] have been checked with respect to all employees, medical staff, and independent contractors (as appropriate); [81]
- Assisting the home health agency's financial management in coordinating internal compliance review and

[75] For example, as a condition of participation, Medicare requires that home health agencies retain records regarding their claims to Medicare for a minimum of 5 years after the month the cost report to which the records apply is filed with the fiscal intermediary. See 42 CFR 484.48(a).

[76] The creation and retention of such documents and reports may raise a variety of legal issues, such as patient privacy and confidentiality. These issues are best discussed with legal counsel.

[77] The OIG believes that it is not advisable for the compliance function to be subordinate to the home health agency's general counsel, or comptroller or similar home health agency financial officer. Free standing compliance functions help to ensure independent and objective legal reviews and financial analyses of the institution's compliance efforts and activities. By separating the compliance function from the key management positions of general counsel or chief financial officer (where the size and structure of the home health agency make this a feasible option), a system of checks and balances is established to more effectively achieve the goals of the compliance program.

[78] For multi-home health agency organizations or hospital-owned home health agencies, the OIG encourages coordination with each home health agency owned by the corporation or hospital through the use of a headquarter's compliance officer, communicating with parallel positions in each facility, regional office, or business line, as appropriate.

[79] The National Practitioner Data Bank is a data base that contains information about medical malpractice payments, sanctions by boards of medical examiners or State licensing boards, adverse clinical privilege actions, and adverse professional society membership actions. Health care entities can have access to this data base to seek information about their own medical or clinical staff, as well as prospective employees.

[80] The Cumulative Sanction Report is an OIG-produced report available on the Internet at http://www.dhhs.gov/progorg/oig. It is updated on a regular basis to reflect the status of health care providers who have been excluded from participation in the Medicare and Medicaid programs. In addition, the General Services Administration maintains a monthly listing of debarred contractors on the Internet at http://www.arnet.gov/epls.

[81] The compliance officer may also have to ensure that the criminal backgrounds of employees have been checked depending upon State requirements or home health agency policy. See note 105.

monitoring activities, including annual or periodic reviews of departments;

• Independently investigating and acting on matters related to compliance, including the flexibility to design and coordinate internal investigations (*e.g.*, responding to reports of problems or suspected violations) and any resulting corrective action (*e.g.*, making necessary improvements to home health agency policies and practices, taking appropriate disciplinary action, etc.) with all home health agency departments, subcontracted providers, and health care professionals under the home health agency's control,[82] and any other agents if appropriate;

• Developing policies and programs that encourage managers and employees to report suspected fraud and other improprieties without fear of retaliation; and

• Continuing the momentum of the compliance program and the accomplishment of its objectives long after the initial years of implementation.[83]

The compliance officer must have the authority to review all documents and other information that are relevant to compliance activities, including, but not limited to, patient records, billing records, and records concerning the marketing efforts of the facility and the home health agency's arrangements with other parties, including employees, professionals on staff, relevant independent contractors, suppliers, agents, supplemental staffing entities, and physicians. This policy enables the compliance officer to review contracts and obligations (seeking the advice of legal counsel, where appropriate) that may contain referral and payment provisions that could violate the anti-kickback statute, as well as the Stark physician self-referral prohibition and other legal or regulatory requirements.

2. Compliance Committee

The OIG recommends that a compliance committee be established to advise the compliance officer and assist in the implementation of the compliance program.[84] When developing an appropriate team of people to serve as the home health agency's compliance committee, including the compliance officer, a home health agency should consider a variety of skills and personality traits that are expected from those in such positions.[85] Once a home health agency chooses the people that will accept the responsibilities vested in members of the compliance committee, the home health agency needs to train these individuals on the policies and procedures of the compliance program, as well as how to discharge their duties. The committee's functions should include:

• Analyzing the organization,[86] regulatory environment, the legal requirements with which it must comply,[87] and specific risk areas;

• Assessing existing policies and procedures that address these risk areas for possible incorporation into the compliance program;

• Working with appropriate home health agency departments to develop standards of conduct and policies and procedures to promote compliance with legal and ethical requirements;

• Recommending and monitoring, in conjunction with the relevant departments, the development of internal systems and controls to carry out the organization's standards, policies, and procedures as part of its daily operations;[88]

• Determining the appropriate strategy/approach to promote compliance with the program and detection of any potential violations, such as through hotlines and other fraud reporting mechanisms;

• Developing a system to solicit, evaluate, and respond to complaints and problems; and

• Monitoring internal and external audits and investigations for the purpose of identifying troublesome issues and deficient areas experienced by the home health agency, and implementing corrective and preventive action.

The committee may also address other functions as the compliance concept becomes part of the overall home health agency operating structure and daily routine.

*C. Conducting Effective Training and Education*

The proper education and training of corporate officers, managers, employees, nurses, and other health care professionals, and the continual retraining of current personnel at all levels, are significant elements of an effective compliance program. As part of their compliance programs, home health agencies should require personnel to attend specific training on a periodic basis, including appropriate training in Federal and State statutes, regulations, and guidelines, and the policies of private payors, and training in corporate ethics, which emphasizes the organization's commitment to compliance with these legal requirements and policies.[89]

These training programs should include sessions highlighting the organization's compliance program, summarizing fraud and abuse laws, Federal health care program requirements, claim development and submission processes, patient rights, and marketing practices that reflect current legal and program standards. The organization must take steps to communicate effectively its standards and procedures to all affected employees, physicians, independent contractors, and other significant agents, *e.g.*, by requiring participation in training programs and disseminating publications that explain specific

[82] *E.g.*, physical therapists, occupational therapists, speech therapists, medical social workers, and supplemental staffing entities.

[83] Periodic on-site visits of home agency operations, bulletins with compliance updates and reminders, distribution of audiotapes or videotapes on different risk areas, lectures at management and employee meetings, circulation of recent health care article covering fraud and abuse, and innovative changes to compliance training are various examples of approaches and techniques the compliance officer can employ for the purpose of ensuring continued interest in the compliance program and the home health agency's commitment to its policies and principles.

[84] The compliance committee benefits from having the perspectives of individuals with varying responsibilities in the organization, such as operations, finance, audit, human resources, and clinical management (*e.g.*, Medical Director), as well as employees and managers of key operating units. These individuals should have the requisite seniority and comprehensive experience within their respective departments to implement any necessary changes to home health agency policies and procedures as recommended by the committee. A compliance committee for a home health agency that is part of a hospital might benefit from the participation of officials from other departments in the hospital, such as the accounting and billing departments.

[85] A health care provider should expect its compliance committee members and compliance officer to demonstrate high integrity, good judgment, assertiveness, and an approachable demeanor, while eliciting the respect and trust of employees of the home health agency and having significant professional experience working with billing, clinical records, documentation, and auditing principles.

[86] *E.g.*, understanding the practical implications of the fraud and abuse provisions of the Balanced Budget Act of 1997, Pub. L. 105–33, and the Health Insurance Portability and Accountability Act of 1996, Pub. L. 104–191.

[87] This includes, but is not limited to, compliance with the Medicare conditions of participation. See 42 U.S.C. 1395bbb.

[88] With respect to multi-home health agency organizations and hospital-owned home health agencies, this may include fostering coordination and communication between those employees responsible for compliance at the corporation or hospital and those responsible for compliance at the home agencies.

[89] Specific compliance training should complement any ''in-service'' training sessions that a home health agency may regularly schedule to reinforce adherence to policies and practices of the particular home health agency.

requirements in a practical manner.[90] Managers of specific departments or groups can assist in identifying areas that require training and in carrying out such training.[91] Training instructors may come from outside or inside the organization, but must be qualified to present the subject matter involved and experienced enough in the issues presented to adequately field questions and coordinate discussions among those being trained. New employees should be trained early in their employment.[92] Training programs and materials should be designed to take into account the skills, experience, and knowledge of the individual trainees. The compliance officer should document any formal training undertaken by the home health agency as part of the compliance program.

A variety of teaching methods, such as interactive training, and training in several different languages, particularly where a home health agency has a culturally diverse staff, should be implemented so that all affected employees are knowledgeable of the institution's standards of conduct and procedures for alerting senior management to problems and concerns.[93] Targeted training should be provided to corporate officers, managers, and other employees whose actions affect the accuracy of the claims submitted to the Government, such as employees involved in the billing, cost reporting, and marketing processes. Given the complexity and interdependent relationships of many departments, proper coordination and supervision of this process by the compliance officer is important. In addition to specific training in the risk areas identified in section II.A.2, above, primary training for appropriate corporate officers, managers, and other home health agency staff should include such topics as:

- Government and private payor reimbursement principles;
- General prohibitions on paying or receiving remuneration to induce referrals;
- Improper alterations to clinical records;
- Providing home health services with proper authorization;
- Proper documentation of services rendered, including the correct application of official ICD and CPT coding rules and guidelines;
- Patient rights and patient education;
- Compliance with Medicare conditions of participation; and
- Duty to report misconduct.

Clarifying and emphasizing these areas of concern through training and educational programs are particularly relevant to a home health agency's marketing and financial personnel, in that the pressure to meet business goals may render these employees vulnerable to engaging in prohibited practices.

The OIG suggests that all relevant levels of personnel be made part of various educational and training programs of the home health agency.[94] Employees should be required to have a minimum number of educational hours per year, as appropriate, as part of their employment responsibilities.[95] For example, for certain employees involved in the billing functions, periodic training in applicable reimbursement coverage and documentation of clinical records should be required.[96] In home health agencies with high employee turnover, periodic training updates are critical.

The OIG recommends that attendance and participation in training programs be made a condition of continued employment and that failure to comply with training requirements should result in disciplinary action, including possible termination, when such failure is serious. Adherence to the provisions of the compliance program, such as training requirements, should be a factor in the annual evaluation of each employee. The home health agency should retain adequate records of its training of employees, including attendance logs and material distributed at training sessions.

Finally, the OIG recommends that home health agency compliance programs address the need for periodic professional education courses that may be required by statute and regulation for certain home health agency employees.

*D. Developing Effective Lines of Communication*

1. Access to the Compliance Officer

An open line of communication between the compliance officer and home health agency employees is equally important to the successful implementation of a compliance program and the reduction of any potential for fraud, abuse, and waste. Written confidentiality and non-retaliation policies should be developed and distributed to all employees to encourage communication and the reporting of incidents of potential fraud.[97] The compliance committee should also develop independent reporting paths for an employee to report fraud, waste, or abuse so that employees can feel comfortable reporting outside the normal chain of command and supervisors or other personnel cannot divert such reports.[98]

The OIG encourages the establishment of a procedure so that home health agency personnel may seek clarification from the compliance officer or members of the compliance committee in the event of any confusion or question with regard to a home health agency policy, practice, or procedure. Questions and responses should be documented and dated and, if appropriate, shared with other staff so that standards, policies, practices, and procedures can be updated and improved to reflect any necessary changes or clarifications. The

[90] Some publications, such as OIG's Special Fraud Alerts, audit and inspection reports, and advisory opinions, as well as the annual OIG work plan, are readily available from the OIG and could be the basis for standards, educational courses, and programs for appropriate home health agency employees.

[91] Significant variations in the functions and responsibilities of different departments or groups may create the need for training materials that are tailored to compliance concerns associated with particular operations and duties.

[92] Certain positions, such as those that involve the billing of home health services, create a greater organizational legal exposure, and therefore require specialized training. One recommendation would be for a home health agency to attempt to fill such positions with individuals who have the appropriate educational background and training.

[93] Post-training tests can be used to assess the success of training provided and employee comprehension of the home health agency's policies and procedures.

[94] In addition, where feasible, the OIG recommends that a home health agency afford outside contractors the opportunity to participate in the home health agency's compliance training and educational programs, or develop their own programs that complement the home health agency's standards of conduct, compliance requirements, and other rules and practices.

[95] Currently, the OIG is monitoring a significant number of corporate integrity agreements that require many of these training elements. The OIG usually requires a minimum of 1 to 3 hours annually for basic training in compliance areas. Additional training is required for specialty fields such as billing and marketing.

[96] Appropriate billing depends upon the quality and completeness of the clinical documentation. Therefore, OIG believes that active clinical staff participation in educational programs focusing on billing and documentation should be emphasized by the home health agency. Clinical staff should be reminded that thorough, precise, and timely documentation of services provided services the interests of the patient, as well as the interests of the billing department.

[97] The OIG believes that whistleblowers should be protected against retaliation, a concept embodied in the provisions of the False Claims Act. See 31 U.S.C. 3730(h). In many causes, employees sue their employers under the False Claims Act's *qui tam* provisions out of frustration because of the company's failure to take action when a questionable, fraudulent, or abusive situation was brought to the attention of senior corporate officials.

[98] Home health agencies can also consider rewarding employees for appropriate use of established systems.

compliance officer may want to solicit employee input in developing these communication and reporting systems.

2. Hotlines and Other Forms of Communication

The OIG encourages the use of hotlines,[99] e-mails, written memoranda, newsletters, suggestion boxes, and other forms of information exchange to maintain these open lines of communication.[100] If the home health agency establishes a hotline, the telephone number should be made readily available to all employees and independent contractors, possibly by circulating the number on wallet cards or conspicuously posting the telephone number in common work areas.[101] Employees should be permitted to report matters on an anonymous basis. Matters reported through the hotline or other communication sources that suggest substantial violations of compliance policies, Federal health care program requirements, regulations, or statutes should be documented and investigated promptly to determine their veracity. A log should be maintained by the compliance officer that records such calls, including the nature of any investigation and its results.[102] Such information should be included in reports to the governing body, the CEO, and compliance committee.[103] Further, while the home health agency should always strive to maintain the confidentiality of an employee's identity, it should also explicitly communicate that there may be a point where the individual's identity may become known or may have to be revealed in certain instances.

The OIG recognizes that assertions of fraud and abuse by employees who may have participated in illegal conduct or committed other malfeasance raise numerous complex legal and management issues that should be examined on a case-by-case basis. The compliance officer should work closely with legal counsel, who can provide guidance regarding such issues.

*E. Enforcing Standards Through Well-Publicized Disciplinary Guidelines*

1. Discipline Policy and Actions

An effective compliance program should include guidance regarding disciplinary action for corporate officers, managers, employees, and other health care professionals who have failed to comply with the home health agency's standards of conduct, policies and procedures, Federal health care program requirements, or Federal and State laws, or those who have otherwise engaged in wrongdoing, which have the potential to impair the home health agency's status as a reliable, honest, and trustworthy health care provider.

The OIG believes that the compliance program should include a written policy statement setting forth the degrees of disciplinary actions that may be imposed upon corporate officers, managers, employees, and other health care professionals for failing to comply with the home health agency's standards and policies and applicable statutes and regulations. Intentional or reckless noncompliance should subject transgressors to significant sanctions. Such sanctions could range from oral warnings to suspension, termination, or financial penalties, as appropriate. Each situation must be considered on a case-by-case basis to determine the appropriate sanction. The written standards of conduct should elaborate on the procedures for handling disciplinary problems and those who will be responsible for taking appropriate action. Some disciplinary actions can be handled by department or agency managers, while others may have to be resolved by a senior home health agency administrator. Disciplinary action may be appropriate where a responsible employee's failure to detect a violation is attributable to his or her negligence or reckless conduct. Personnel should be advised by the home health agency that disciplinary action will be taken on a fair and equitable basis. Managers and supervisors should be made aware that they have a responsibility to discipline employees in an appropriate and consistent manner.

It is vital to publish and disseminate the range of disciplinary standards for improper conduct and to educate officers and other home health agency employees regarding these standards. The consequences of noncompliance should be consistently applied and enforced, in order for the disciplinary policy to have the required deterrent effect. All levels of employees should be potentially subject to the same types of disciplinary action for the commission of similar offenses. The commitment to compliance applies to all personnel levels within a home health agency. The OIG believes that corporate officers, managers, supervisors, clinical staff, and other health care professionals should be held accountable for failing to comply with, or for the foreseeable failure of their subordinates to adhere to, the applicable standards, laws, and procedures.

2. New Employee Policy

For all new employees who have discretionary authority to make decisions that may involve compliance with the law or compliance oversight, home health agencies should conduct a reasonable and prudent background investigation, including a reference check,[104] as part of every such employment application. The application should specifically require the applicant to disclose any criminal conviction,[105] as defined by 42 U.S.C. 1320a–7(i), or exclusion action. Pursuant to the compliance program, home health agency policies should prohibit the employment of individuals who have been recently convicted of a criminal offense related to health care[106] or who are listed as debarred, excluded, or otherwise ineligible for participation in Federal health care programs.[107] In addition, pending the

[99] The OIG recognizes that it may not be financially feasible for a smaller home health agency to maintain a telephone hotline dedicated to receiving calls about compliance issues.

[100] In addition to methods of communication used by current employees, an effective employee exit interview program could be designed to solicit information from departing employees regarding potential misconduct and suspected violations go home health agency policy and procedures.

[101] Home health agencies should also post in a prominent, available area the HHS–OIG Hotline telephone number, 1–800–447–8477 (1–800–HHS–TIPS), in addition to any company hotline number that may be posted.

[102] To efficiently and accurately fulfill such an obligation, the home health agency should create an intake form for all compliance issues identified through reporting mechanisms. The form could include information concerning the date that the potential problem was reported, the internal investigative methods utilized, the results of the investigation, the corrective action implemented, the disciplinary measures imposed, and any identified overpayments and monies returned.

[103] Information obtained over the hotline may provide valuable insight into management practices and operations, whether reported problems are actual or perceived.

[104] See note 80.

[105] Slightly over a quarter of the States require, and several home health agencies voluntarily conduct, criminal background checks for prospective employees of home health agencies. Identification of a criminal background of an applicant, who may have been recently convicted of serious crimes that relate to the proposed employment duties, could be grounds for denying employment. Further, criminal background screening may deter those individuals with criminal intent from entering the field of home health. See United States General Accounting Office's September 27, 1996, *Letter Report* entitled ''Long-Term Care: Some States Apply Criminal Background Checks to Home Care Workers,'' GAO/PEMD–96–5.

[106] Since providers of home health services have frequent, relatively unsupervised access to potentially vulnerable people and their property, a home health agency should also strictly scrutinize whether it should employ individuals who have been convicted of crimes of neglect, violence, or financial misconduct.

[107] Likewise, home health agency compliance programs should establish standards prohibiting the

resolution of any criminal charges or proposed debarment or exclusion, the OIG recommends that an individual who is the subject of such actions should be removed from direct responsibility for or involvement in any Federal health care program.[108] With regard to current employees or independent contractors, if resolution of the matter results in conviction, debarment, or exclusion, the home health agency should terminate its employment or other contract arrangement with the individual or contractor.

*F. Auditing and Monitoring*

An ongoing evaluation process is critical to a successful compliance program. The OIG believes that an effective program should incorporate thorough monitoring of its implementation and regular reporting to senior home health agency or corporate officers.[109] Compliance reports created by this ongoing monitoring, including reports of suspected noncompliance, should be maintained by the compliance officer and shared with the home health agency's senior management and the compliance committee. The extent and frequency of the audit function may vary depending on factors such as the size and available resources, prior history of noncompliance, and the risk factors that a particular home health agency confronts.

Although many monitoring techniques are available, one effective tool to promote and ensure compliance is the performance of regular, periodic compliance audits by internal or external auditors who have expertise in Federal and State health care statutes, regulations, and Federal health care program requirements. The audits should focus on the home health agency's programs or divisions, including external relationships with third-party contractors, specifically those with substantive exposure to Government enforcement actions. At a minimum, these audits should be designed to address the home health agency's compliance with laws governing kickback arrangements, the physician self-referral prohibition, claim development and submission, reimbursement, cost reporting, and marketing. The audits and reviews should inquire into the home health agency's compliance with the Medicare conditions of participation and the specific rules and policies that have been the focus of particular attention on the part of the Medicare fiscal intermediaries or carriers, and law enforcement, as evidenced by educational and other communications from OIG Special Fraud Alerts, OIG audits and evaluations, and law enforcement's initiatives.[110] In addition, the home health agency should focus on any areas of concern that are specific to the individual home health agency and have been identified by any entity, whether Federal, State, or internal.

Monitoring techniques may include sampling protocols that permit the compliance officer to identify and review variations from an established baseline.[111] Significant variations from the baseline should trigger a reasonable inquiry to determine the cause of the deviation. If the inquiry determines that the deviation occurred for legitimate, explainable reasons, the compliance officer and home health agency management may want to limit any corrective action or take no action. If it is determined that the deviation was caused by improper procedures, misunderstanding of rules, including fraud and systemic problems, the home health agency should take prompt steps to correct the problem. Any overpayments discovered as a result of such deviations should be returned promptly to the affected payor, with appropriate documentation and a sufficiently detailed explanation of the reason for the refund.[112]

Monitoring techniques may also include a review of any reserves the home health agency has established for payments that it may owe to Medicare, Medicaid, or other Federal health care programs. Any reserves discovered that include funds that should have been paid to such programs, or funds set aside for potential reimbursement of a known overpayment to the home health agency, should be paid promptly, regardless of whether demand has been made for such payment.

An effective compliance program should also incorporate periodic (at least annual) reviews of whether the program's compliance elements have been satisfied, *e.g.*, whether there has been appropriate dissemination of the program's standards, training, ongoing educational programs, and disciplinary actions, among other elements.[113] This process will verify actual conformance by all departments with the compliance program and may identify the necessity for improvements to be made to the compliance program, as well as the home health agency's operations. Such reviews could support a determination that appropriate records have been created and maintained to document the implementation of an effective program.[114] However, when monitoring discloses that deviations were not detected in a timely manner due to program deficiencies, proper modifications must be implemented. Such evaluations, when developed with the support of management, can help ensure compliance with the home health agency's policies and procedures.

As part of the review process, the compliance officer or reviewers should consider techniques such as:

- Visits and interviews of patients at their homes;
- Analysis of utilization patterns;
- Testing clinical and billing staff on their knowledge of reimbursement coverage criteria and official coding guidelines (*e.g.*, present hypothetical scenarios of situations experienced in daily practice and assess responses);
- Assessment of existing relationships with physicians, hospitals, and other potential referral sources;
- Unannounced mock surveys, audits, and investigations;
- Reevaluation of deficiencies cited in past surveys for Medicare conditions of participation;

execution of contracts with companies that have been recently convicted of a criminal offense related to health care or that are listed by a Federal agency as debarred, excluded, or otherwise ineligible for participation in Federal health care programs. *See* note 80.

[108] Prospective employees who have been officially reinstated into the Medicare and Medicaid programs by the OIG may be considered for employment upon proof of such reinstatement.

[109] Even when a home health agency or group of home health agencies is owned by a larger corporate entity, the regular auditing and monitoring of the compliance activities of an individual home health agency must be a key feature in any annual review. Appropriate reports on audit findings should be periodically provided and explained to a parent organization's senior staff and officers.

[110] See also section II.A.2.

[111] The OIG recommends that when a compliance program is established in a home health agency, the compliance officer, with the assistance of department managers, should take a ''snapshot'' of their operations from a compliance perspective. This assessment can be undertaken by outside consultants, law or accounting firms, or internal staff, with authoritative knowledge of health care compliance requirements. This ''snapshot,'' often used as part of benchmarking analyses, becomes a baseline for the compliance officer and other managers to judge the home health agency's progress in reducing or eliminating potential areas of vulnerability.

[112] In addition, when appropriate, as referenced in section G.2, below, reports of fraud or systemic problems should also be made to the appropriate governmental authority.

[113] One way to assess the knowledge, awareness, and perceptions of the home health agency's employees is through the use of a validated survey instrument (*e.g.*, employee questionnaires, interviews, or focus groups).

[114] Such records should include, but not be limited to, logs of hotline calls, logs of training attendees, training agenda materials, and summaries of corrective action taken and improvements made to home health agency policies as a result of compliance activities.

- Examination of home health agency complaint logs;
- Checking personnel records to determine whether any individuals who have been reprimanded for compliance issues in the past are among those currently engaged in improper conduct;
- Interviews with personnel involved in management, operations, claim development and submission, patient care, and other related activities;
- Questionnaires developed to solicit impressions of a broad cross-section of the home health agency's employees and staff;
- Interviews with physicians who order services provided by the home health agency;
- Reviews of clinical documentation (e.g., plan of care, nursing notes, etc.), financial records, and other source documents that support claims for reimbursement and Medicare cost reports;
- Validation of qualifications of physicians who order services provided by the home health agency;
- Evaluation of written materials and documentation outlining the home health agency's policies and procedures; and
- Trend analyses, or longitudinal studies, that uncover deviations, positive or negative, in specific areas over a given period.

**The reviewers should:**

- Have the qualifications and experience necessary to adequately identify potential issues with the subject matter that is reviewed;
- Be objective and independent of line management to the extent reasonably possible; [115]
- Have access to existing audit and health care resources, relevant personnel, and all relevant areas of operation;
- Present written evaluative reports on compliance activities to the CEO, governing body, and members of the compliance committee on a regular basis, but no less often than annually; and
- Specifically identify areas where corrective actions are needed.

With these reports, home health agency management can take whatever steps are necessary to correct past problems and prevent them from recurring. In certain cases, subsequent reviews or studies would be advisable to ensure that the recommended corrective actions have been implemented successfully.

The home health agency should document its efforts to comply with applicable statutes, regulations, and Federal health care program requirements. For example, where a home health agency, in its efforts to comply with a particular statute, regulation or program requirement, requests advice from a Government agency (including a Medicare fiscal intermediary or carrier) charged with administering a Federal health care program, the home health agency should document and retain a record of the request and any written or oral response. This step is extremely important if the home health agency intends to rely on that response to guide it in future decisions, actions, or claim reimbursement requests or appeals. A log of oral inquiries between the home health agency and third parties will help the organization document its attempts at compliance. In addition, the home health agency should maintain records relevant to the issue of whether its reliance was ''reasonable'' and whether it exercised due diligence in developing procedures and practices to implement the advice.

*G. Responding to Detected Offenses and Developing Corrective Action Initiatives*

1. Violations and Investigations

Violations of a home health agency's compliance program, failures to comply with applicable Federal or State law, and other types of misconduct threaten a home health agency's status as a reliable, honest and trustworthy provider capable of participating in Federal health care programs. Detected but uncorrected misconduct can seriously endanger the mission, reputation, and legal status of the home health agency. Consequently, upon reports or reasonable indications of suspected noncompliance, it is important that the compliance officer or other management officials immediately investigate the conduct in question to determine whether a material violation of applicable law or the requirements of the compliance program has occurred, and if so, take decisive steps to correct the problem.[116] As appropriate, such steps may include an immediate referral to criminal and/or civil law enforcement authorities, a corrective action plan,[117] a report to the Government,[118] and the return of any overpayments, if applicable.

Where potential fraud or False Claims Act liability is not involved, the OIG recommends that normal repayment channels should be used for returning overpayments to the Government as they are discovered. However, even if the overpayment detection and return process is working and is being monitored by the home health agency's audit or billing divisions, the OIG still believes that the compliance officer needs to be made aware of these overpayments, violations, or deviations that may reveal trends or patterns indicative of a systemic problem.

Depending upon the nature of the alleged violations, an internal investigation will probably include interviews and a review of relevant documents. Some home health agencies should consider engaging outside counsel, auditors, or health care experts to assist in an investigation.

Records of the investigation should contain documentation of the alleged violation, a description of the investigative process (including the objectivity of the investigators and methodologies utilized), copies of interview notes and key documents, a log of the witnesses interviewed and the documents reviewed, the results of the investigation, *e.g.*, any disciplinary action taken, and the corrective action implemented. While any action taken as the result of an investigation will necessarily vary depending upon the home health agency and the situation, home health agencies should strive for some consistency by utilizing sound practices and disciplinary protocols.[119]

[115] The OIG recognizes that home health agencies that are small in size and have limited resources may not be able to use internal reviewers who are not part of line management or hire outsider reviewers.

[116] Instances of noncompliance must be determined on a case-by-case basis. The existence, or amount, of a *monetary* loss to a health care program is not solely determinative of whether or not the conduct should be investigated and reported to governmental authorities. In fact, there may be instances where there is no readily identifiable monetary loss at all, but corrective action and reporting are still necessary to protect the integrity of the applicable program and its beneficiaries, (*e.g.*, where services required by a plan of care were not provided.

[117] Advice from the home health agency's in-house counsel or an outside law firm may be sought to determine the extent of the home health agency's liability and to plan the appropriate course of action.

[118] The OIG currently maintains a voluntary disclosure program that encourages providers to report suspected fraud. The concept of voluntary self-disclosure is premised on a recognition that the Government alone cannot protect the integrity of the Medicare and other Federal health care programs. Health care providers must be willing to police themselves, correct underlying problems, and work with the Government to resolve these matters. The OIG's voluntary self-disclosure program has four prerequisites: (1) The disclosure must be on behalf of an entity and not an individual; (2) the disclosure must be truly voluntary (*i.e.*, no pending proceeding or investigation); (3) the entity must disclose the nature of the wrongdoing and the harm to the Federal health care programs; and (4) the entity must not be the subject of a bankruptcy proceeding before or after the self-disclosure.

[119] The parameters of a claim review subject to an internal investigation will depend on the

Further, after a reasonable period, the compliance officer should review the circumstances that formed the basis for the investigation to determine whether similar problems have been uncovered or modifications of the compliance program are necessary to prevent and detect other inappropriate conduct or violations.

If an investigation of an alleged violation is undertaken and the compliance officer believes the integrity of the investigation may be at stake because of the presence of employees under investigation, those subjects should be removed from their current work activity until the investigation is completed (unless an internal or Government-led undercover operation known to the home health agency is in effect). In addition, the compliance officer should take appropriate steps to secure or prevent the destruction of documents or other evidence relevant to the investigation. If the home health agency determines that disciplinary action is warranted, it should be prompt and imposed in accordance with the home health agency's written standards of disciplinary action.

2. Reporting

If the compliance officer, compliance committee, or management official discovers credible evidence of misconduct from any source and, after a reasonable inquiry, has reason to believe that the misconduct may violate criminal, civil, or administrative law, then the home health agency should promptly report the existence of misconduct to the appropriate Federal and State authorities [120] within a reasonable period, but not more than sixty (60) days [121] after determining that there is credible evidence of a violation.[122] Prompt reporting will demonstrate the home health agency's good faith and willingness to work with governmental authorities to correct and remedy the problem. In addition, reporting such conduct will be considered a mitigating factor by the OIG in determining administrative sanctions (*e.g.*, penalties, assessments, and exclusion), if the reporting provider becomes the target of an OIG investigation.[123]

When reporting misconduct to the Government, a home health agency should provide all evidence relevant to the alleged violation of applicable Federal or State law(s) and potential cost impact. The compliance officer, under advice of counsel, and with guidance from the governmental authorities, could be requested to continue to investigate the reported violation. Once the investigation is completed, the compliance officer should be required to notify the appropriate governmental authority of the outcome of the investigation, including a description of the impact of the alleged violation on the operation of the applicable health care programs or their beneficiaries. If the investigation ultimately reveals that criminal, civil, or administrative violations have occurred, the appropriate Federal and State authorities [124] should be notified immediately.

As previously stated, the home health agency should take appropriate corrective action, including prompt identification of any overpayment to the affected payor and the imposition of proper disciplinary action. If potential fraud or violations of the False Claims Act are involved, any repayment of the overpayment should be made as part of the discussion with the Government following a report of the matter to law enforcement authorities. Otherwise, normal repayment channels should be used for repaying identified overpayments.[125] Failure to disclose overpayments within a reasonable period of time could be interpreted as an intentional attempt to conceal the overpayment from the Government, thereby establishing an independent basis for a criminal violation with respect to the home health agency, as well as any individuals who may have been involved.[126] For this reason, home health agency compliance programs should emphasize that overpayments obtained from Medicare and other Federal health care programs should be promptly disclosed and returned to the payor that made the erroneous payment.

## III. Conclusion

Through this document, the OIG has attempted to provide a foundation to the process necessary to develop an effective and cost-efficient home health agency compliance program. As previously stated, however, each program must be tailored to fit the needs and resources of an individual home health agency, depending upon its particular corporate structure, mission, and employee composition. The statutes, regulations, and guidelines of the Federal and State health insurance programs, as well as the policies and procedures of the private health plans, should be integrated into every home health agency's compliance program.

The OIG recognizes that the health care industry in this country, which reaches millions of beneficiaries and expends about a trillion dollars annually, is constantly evolving. In particular, the home health industry is currently responding to recent legislative changes that have created additional program participation requirements and is gearing up for the changes underway in the areas of home health reimbursement and payment methodologies. However, the time is right for home health agencies to implement a strong voluntary compliance program concept in health care. As stated throughout this guidance, compliance is a dynamic process that helps to ensure that home health agencies and other health care providers are better able to fulfill their commitment to ethical behavior, as well as meet the changes and challenges

circumstances surrounding the issue(s) identified. By limiting the scope of an internal audit to current billing, a home health agency may fail to discover major problems and deficiencies in operations, as well as be subject to certain liability.

[120] Appropriate Federal and State authorities include the Office of Inspector General of the Department of Health and Human Services, the Criminal and Civil Divisions of the Department of Justice, the U.S. Attorney in relevant districts, and the other investigative arms for the agencies administering the affected Federal or State health care programs, such as the State Medicaid Fraud Control Unit, the Defense Criminal Investigative Service, and, the Department of Veterans Affairs and the Office of Personnel Management (which administers the Federal Employee Health Benefits Program).

[121] In contrast, to qualify for the ''not less than double damages'' provision of the False Claims Act, the report must be provided to the government within thirty (30) days after the date when the home health agency first obtained the information. 31 U.S.C. 3729(a).

[122] The OIG believes that some violations may be so serious that they warrant immediate notification to governmental authorities, prior to, or simultaneous with, commencing an internal investigation, *e.g.*, if the conduct: (1) Is a clear violation of criminal law; (2) has a significant adverse effect on the quality of care provided to program beneficiaries (in addition to any other legal obligations regarding quality of care); or (3) indicates evidence of a systemic failure to comply with applicable laws or an existing corporate integrity agreement, regardless of the financial impact on Federal health care programs.

[123] The OIG has published criteria setting forth those factors that the OIG takes into consideration in determining whether it is appropriate to exclude a health care provider from program participation pursuant to 42 U.S.C. 1320a–7(b)(7) for violations of various fraud and abuse laws. See 62 FR 67392 (1997).

[124] See note 120.

[125] A home health agency should consult with its Medicare fiscal intermediary or HCFA for any further guidance regarding normal repayment channels. The home health agency's Medicare fiscal intermediary or HCFA may require certain information (*e.g.*, alleged violation or issue causing overpayment, description of the internal investigative process with methodologies used to determine any overpayments, disciplinary actions taken, and corrective actions taken, etc.) To be submitted with return of any overpayments, and that such repayment information be submitted to a specific department or individual. Interest will be assessed, when appropriate. See 42 CFR 405.376.

[126] See U.S.C. 130a–7b(a)(3).

being imposed upon them by Congress and private insurers. Ultimately, it is OIG's hope that a voluntarily created compliance program will enable home health agencies to meet their goals, improve the quality of patient care, and substantially reduce fraud, waste, and abuse, as well as the cost of health care to Federal, State, and private health insurers.

Dated: July 31, 1998.

**June Gibbs Brown,**

*Inspector General.*

[FR Doc. 98–20966 Filed 8–6–98; 8:45 am]

BILLING CODE 4150–04–P

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## 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.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Cancer Institute Special Emphasis Panel Cooperative Trials in Diagnostic Imaging.

*Date:* August 11–12, 1998.

*Time:* 7:00 p.m. to 3:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Ramada Inn, 1775 Rockville Pike, Rockville, MD 20852.

*Contact Person:* Ray Bramhall, Scientific Review Administrator, Special Review, Referral and Resources Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6130 Executive Blvd., Rockville, MD 20892, (301) 496–3428.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 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, National Institutes of Health, HHS)

Dated: July 31, 1998.

**LaVerne Y. Stringfield,**

*Committee Management Officer, NIH.*

[FR Doc. 98–21240 Filed 8–6–98; 8:45 am]

BILLING CODE 4140–01–M

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## 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.

The meeting will be closed to the pubic in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Cancer Institute Special Emphasis Panel Prostate, Lung Colorectal and Ovarian Cancer Screening Trial Expansion.

*Date:* August 10, 1998.

*Time:* 12:00 PM to 2:00 PM.

*Agenda:* To review and evaluate contract proposals.

*Place:* 6130 Executive Blvd. 6th Floor, Rockville, MD 20852.

*Contact Person:* Wilna A. Woods, Deputy Chief, Special Review, Referral and Research Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, Rockeville, MD 20852, (301) 496–7903.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 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; 93.392, Cancer Construction, National Institutes of Health, HHS)

Dated: August 4, 1998.

**LaVerne Y. Stringfield,**

*Committee Management Officer, NIH.*

[FR Doc. 98–21246 Filed 8–6–98; 8:45 am]

BILLING CODE 4140–01–M

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Center For Research Resources; 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.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Center for Research Resources Special Emphasis Panel, American Type Culture Collection (ATCC) Contract Evaluation.

*Date:* September 2, 1998.

*Time:* 8 a.m. to 5 p.m.

*Agenda:* To review and evaluate contract proposals.

*Place:* The Bethesda Ramada, Ambassador One, 8400 Wisconsin Avenue, Bethesda, MD 20814.

*Contact Person:* D.G. Patel, PHD, Scientific Review Administrator, Office of Review, National Center For Research Resources, 6705 Rockledge Drive, MSC 7965, Room 6018, Bethesda, MD 20892–7965, 301–435–0824.

*Name of Committee:* National Center for Research Resources Special Emphasis Panel Small Business Innovation Research.

*Date:* October 8, 1998.

*Time:* 10 a.m. to 12 p.m.

*Agenda:* To review and evaluate contract proposals.

*Place:* 6705 Rockledge Drive, Suite 6018, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* D.G. Patel, PHD, Scientific Review Administrator, Office of Review, National Center for Research Resources, 6705 Rockledge Drive, MSC 7965, Room 6018, Bethesda, MD 20892–7965, 301–435–0824.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333; 93.371, Biomedical Technology; 93.389, Research Infrastructure, National Institutes of Health, HHS)

Dated: July 31, 1998.

**LaVerne Y. Stringfield,**

*Committee Management Officer, NIH.*

[FR Doc. 98–21241 Filed 8–6–98; 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 Meetings: National Advisory Allergy and Infectious Diseases Council; Acquired Immunodeficiency Syndrome Subcommittee; Allergy and Immunology Subcommittee; Microbiology and Infectious Diseases Subcommittee

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Advisory Allergy and Infectious Diseases Council, National Institute of Allergy and Infectious Diseases, and its subcommittees on September 24–25, 1998. Meetings of the Council, NAAIDC Allergy and Immunology Subcommittee, NAAIDC Microbiology and Infectious Diseases Subcommittee and the NAAIDC Acquired Immunodeficiency Syndrome Subcommittee will be held at the National Institutes of Health, Bethesda, Maryland.

The meeting of the full Council will be open to the public on September 24 and Building 31C, Conference Room 6, from 1 p.m. to approximately 3:45 p.m. for general discussion and program presentations.

On September 25 the meetings of the NAAIDC Allergy and Immunology Subcommittee and NAAIDC Microbiology and Infectious Diseases Subcommittee will be open to the public from 8:30 a.m. until adjournment. The subcommittees will meet in Building 31C, conference rooms 8 and 6 respectively.

The meeting of the NAAIDC Acquired Immunodeficiency Syndrome Subcommittee will be open to the public from 8:30 a.m. until adjournment, on September 25. The subcommittee will meet at the Natcher Building, Conference Room E1.

In accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92–463, the meeting of the NAAIDC Acquired Immunodeficiency Syndrome Subcommittee, NAAIDC Allergy and Immunology Subcommittee and the NAAIDC Microbiology and Infectious Diseases Subcommittee will be closed to the public for approximately four hours for review, evaluation, and discussion of individual grant applications. It is anticipated that this will occur from 8:30 a.m. until approximately 1 p.m. on September 24, in conference rooms 8, 7 and 6 respectively. The meeting of the full Council will be closed from 3:45 p.m. until recess on September 24 for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Claudia Goad, Committee Management Officer, National Institute Allergy and Infectious Diseases, Solar Building, Room 3C26, National Institutes of Health, Bethesda, Maryland 20892, 301–496–7601, will provide a summary of the meeting and a roster of committee members upon request. Individuals who plan to attend and need special assistance, such as sign language interpretations or other reasonable accommodations, should contact Ms. Goad in advance of the meeting.

Dr. John McGowan, Director, Division of Extramural Activities, NIAD, NIH, Solar Building, Room 3C20, 6003 Executive Boulevard, Rockville, Maryland 20892, telephone 301–496–7291, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 93–855 Immunology, Allergic and Immunologic Diseases Research, 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health)

Dated: July 31, 1998.

**LaVerne Y. Stringfield,**

*Commitee Management Officer, NIH.*

[FR Doc. 98–21237 Filed 8–6–98; 8:45 am]

BILLING CODE 4140–01–M

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Dental Research; 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.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Dental Research Special Emphasis Panel 98–51, R44 Review.

*Date:* August 28, 1998.

*Time:* 1:00 p.m. to 3:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Natcher Building, Rm. 4AN44F, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Philip Washko, PHD, DMD, Scientific Review Administrator, 4500 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372.

*Name of Committee:* National Institute of Dental Research Special Emphasis Panel 98–64, R13 Review.

*Date:* September 8, 1998..

*Time:* 12:05 p.m. to 2:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Natcher Building, Rm. 4AN44F, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* H. George Hausch, PHD, Chief, Grants Review Section, 4500 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372.

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: July 31, 1998.

**LaVerne Y. Stringfield,**

*Committee Management Officer, NIH.*

[FR Doc. 98–21238 Filed 8–6–98; 8:45 am]

BILLING CODE 4140–01–M

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Environmental Health Sciences; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given a meeting of the Board of Scientific Counselors, NIEHS.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as mentioned for the review, discussion, and evaluation of individual intramural programs and projects conducted by the

NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* Board of Scientific Counselors, NIEHS.

*Date:* September 20–22, 1998.

*Closed:* September 20, 1998, 8:00 PM to Recess.

*Agenda:* To review and evaluate general program information and discuss review process.

*Place: Siena Hotel, 1505 E. Franklin Street, Chapel Hill, NC 27514.*

*Open:* September 21, 1998, 8:30 AM to 4:45 PM.

*Agenda:* An overview of the organization and conduct of research in the Laboratory of Toxicology.

*Place:* Nat. Institute of Environmental Health Sciences, South Campus, Conference Rooms 101 ABC, 111 T. W. Alexander Drive, Research Triangle Park, NC 27709.

*Closed:* September 22, 1998, 8:30 AM to Adjournment.

*Agenda:* To review and evaluate personal qualifications and performance, and competence of individual investigators.

*Place:* Nat. Institute of Environmental Health Sciences, South Campus, Conference Rooms 101 ABC, 111 T. W. Alexander Drive, Research Triangle Park, NC 27709.

*Contact Person:* J. Carl Barrett, PHD, Scientific Director, Executive Secretary/ Scientific Director, National Institute of Environ. Health Sciences, National Institutes of Health, P.O. Box 12233, Research Triangle Park, NC 27709, (919) 541–3205.

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: July 29, 1998.

**LaVerne Y. Stringfield,**

*Committee Management Officer, NIH.*

[FR Doc. 98–21242 Filed 8–6–98; 8:45 am]

BILLING CODE 4140–01–M

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute on Alcohol Abuse and Alcoholism; 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.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552(b)(c)(4) and 552b(c)(6), Title 5 U.S.C., is amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel ZAA1–EE–(2).

*Date:* September 3, 1998.

*Time:* 2:00 PM to 5:00 PM.

Agenda: To review and evaluate grant applications.

*Place:* 6000 Executive Blvd., Suite 409, Rockville, MD 20852, (Telephone Conference Call).

*Contact Person:* Antonio Noronha, PHD, Scientific Review Administrator, Extramural Review Branch, National Institute on Alcohol Abuse anD Alcoholism, Suite 409, 6000 Executive Boulevard, Bethesda, MD 20892, 301–443–7722.

(Catalogue of Federal Domestic Assistance Program Nos. 93–271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93–273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants, National Institutes of Health, HHS)

Dated: August 3, 1998.

**LaVerne Y. Stringfield,**

*Committee Management Officer, NIH.*

[FR Doc. 98–21243 Filed 8–6–98; 8:45 am]

BILLING CODE 4140–01–M

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Environmental Health Sciences; Notice of 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 a meeting of the National Advisory Environmental Health Sciences Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Advisory Environmental Health Sciences Council.

*Date:* September 14–15, 1998.

*Open:* September 14, 1998, 8:30 AM to recess at 12:15 PM on September 15, 1998.

*Agenda:* Discussion on the Report of the Director, NIEHS, the NIEHS budget, program policies and directions, recent legislation, and other items of interest.

*Place:* Nat. Institute of Environmental Health Sciences, South Campus, Building 101 Conference Room, Research Triangle Park, NC 27709.

*Closed:* September 15, 1998, 1:15 PM to adjournment.

*Agenda:* To review and evaluate grant applications.

*Place:* Nat. Institute of Environmental Health Sciences, South Campus, Building 101 Conference Room, Research Triangle Park, NC 27709.

*Contact Person:* Anne P. Sassaman, PhD, Director, Division of Extramural Research and Training, Executive Secretary, National Institute of Environmental Health Sciences, NIH/PHS, P.O. Box 12233, Research Triangle Park, NC 27709, 919/5417723.

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: August 3, 1998.

**LaVerne Y. Stringfield,**

*Committee Management Officer, NIH.*

[FR Doc. 98–21244 Filed 8–6–98; 8:45 am]

BILLING CODE 4140–01–M

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Mental Health; 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.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Mental Health Special Emphasis Panel.

*Date:* August 6, 1998.

*Time:* 2:00 PM to 4:00 PM.

*Agenda:* To review and evaluate grant applications.

*Place:* Parlawn Building—Room 9–101, Russell Martenson, 5600 Fishers Lane, Rockville, MD 20857, (Telephone Conference Call).

*Contact Person:* Russell E. Martenson, PHD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Parklawn Building, 5600 Fishers Lane, Room 9–101, Rockville, MD 20857, 301–443–3936.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: August 4, 1998.

**LaVerne Y. Stringfield,**

*Committee Management Officer, NIH.*

[FR Doc. 98–21245 Filed 8–6–98; 8:45 am]

**BILLING CODE 4140–01–M**

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## 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 meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* Biological and Physiological Sciences Special Emphasis Panel ZRG2 SSSE (05).

*Date:* August 10, 1998.

*Time:* 1:00 p.m. to 4:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Gloria B. Levin, PHD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5206, MSC 7848, Bethesda, MD 20892, (301) 435–1017.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

*Name of Committee:* Biological and Physiological Sciences Special Emphasis Panel ZRG2 MEP–02S.

*Date:* August 10, 1998.

*Time:* 2:00 p.m. to 3:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Marcelina B. Powers, DVM, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4152, MSC 7804, Bethesda, MD 20892, (301) 435–1720.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

*Name of Committee:* Clinical Sciences Special Emphasis Panel.

*Date:* August 10, 1998.

*Time:* 12:00 p.m. to 1:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Scott Osborne, PhD., MPH, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4114, MSC 7816, Bethesda, MD 20892, (301) 435–1782.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

*Name of Committee:* Biological and Physiological Sciences Special Emphasis Panel ZRG2 SSSD (04).

*Date:* August 11, 1998.

*Time:* 10:30 a.m. to 12:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Daniel B. Berch, PhD., Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5204, MSC 7848, Bethesda, MD 20892, (301) 435–1256.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

*Name of Committee:* Biological and Physiological Sciences Special Emphasis Panel ZRG2 MEP–04S.

*Date:* August 11, 1998.

*Time:* 2:00 p.m. to 4:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Marcelina B. Powers, DVM, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4152, MSC 7804, Bethesda, MD 20892, (301) 435–1720.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

*Name of Committee:* Biological and Physiological Sciences Special Emphasis Panel.

*Date:* August 11, 1998.

*Time:* 4:30 p.m. to 6:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Gloria B. Levin, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5206, MSC 7848, Bethesda, MD 20892, (301) 435–1017.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

*Name of Committee:* Clinical Sciences Special Emphasis Panel.

*Date:* August 11, 1998.

*Time:* 12:00 p.m. to 1:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Scott Osborne, PHD, MPH, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4114, MSC 7816, (301) 435–1782.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

*Name of Committee:* Biological and Physiological Sciences Special Emphasis Panel.

*Date:* August 12, 1998.

*Time:* 2:00 p.m. to 4:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Gloria B. Levin, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5206, MSC 7848, Bethesda, MD 20892, (301) 435–1017.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

*Name of Committee:* Clinical Sciences Special Emphasis Panel.
*Date:* August 13, 1998.
*Time:* 12:00 p.m. to 1:30 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
*Contact Person:* Larry Pinkus, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4132, MSC 7802, Bethesda, MD 20892, (301) 435–1214.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

*Name of Committee:* Microbiological and Immunological Sciences Special Emphasis Panel ZRG5 BM–2 (08).
*Date:* August 19, 1998.
*Time:* 10:00 a.m. to 11:30 a.m.
*Agenda:* To review and evaluate grant applications.
*Place:* NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
*Contact Person:* William C. Branche, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4182, MSC 7808, Bethesda, MD 20892, (301) 435–1148.

*Name of Committee:* Clinical Sciences Special Emphasis Panel.
*Date:* August 20, 1998.
*Time:* 1:00 p.m. to 2:00 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
*Contact Person:* Gopal C. Sharma, DVM, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4112, MSC 7816, Bethesda, MD 20892, (301) 435–1783.

*Name of Committee:* Microbiological and Immunological Sciences Special Emphasis Panel, ZRG5 BM–2 (09).
*Date:* August 21, 1998.
*Time:* 10:00 a.m. to 11:30 a.m.
*Agenda:* To review and evaluate grant applications.
*Place:* NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
*Contact Person:* William C. Branche, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4182, MSC 7808, Bethesda MD 20892, (301) 435–1148.

*Name of Committee:* Clinical Sciences Special Emphasis Panel.
*Date:* August 24, 1998.
*Time:* 1:00 p.m. to 3:00 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
*Contact Person:* Gopal C. Sharma, DVM, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4112 MSC 7816, Bethesda, MD 20892, (301) 435–1783.

*Name of Committee:* Clinical Sciences Special Emphasis Panel.
*Date:* August 25, 1998.
*Time:* 1:00 p.m. to 3:00 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
*Contact Person:* Gopal C. Sharma, DVM, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4112 MSC 7816, Bethesda, MD 20892, (301) 435–1783.

(Catalogue of Federal Domestic Assistance Program Nos. 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, 93.306, Comparative Medicine, 93.306, National Institutes of Health, HHS)

Dated: July 31, 1998.

**LaVerne Y. Stringfield,**

*Committee Management Officer, NIH.*

[FR Doc. 98–21239 Filed 8–6–98; 8:45 am]

**BILLING CODE 4140–01–M**

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## DEPARTMENT OF THE INTERIOR

## Bureau of Land Management

**[NV–020–1220–00]**

## Nevada: Closing of Certain Public Lands in the Winnemucca District for the Management of Lands Located Around the Burning Man Event

**AGENCY:** Bureau of Land Management (Interior).

**ACTION:** Temporary closure of certain public lands in Washoe and Pershing Counties.

**SUPPLEMENTARY INFORMATION:** Certain lands in the Winnemucca District, Pershing and Washoe Counties, Nevada, would be temporarily closed or restricted to camping, vehicle use and firearms use from 6 p.m. August 30 to 6 a.m. September 8, 1998. This closure is being made in the interest of public safety at the location of an event known as the Burning Man Festival. This event is expected to attract at least 12,000 visitors this year.

With the exception of defined camping areas designated and provided by the Burning Man Organization, the following public lands on the open playa, northwest of the Western Pacific Railroad and southeast of County Road 34, are temporarily closed to camping:

**Mount Diablo Meridian, Nevada**

T. 33 N., R. 23 E.,
Sec. 25;
Sec. 28 SE¼, S½;
Sec. 35;
Sec. 36.
T. 32 N., R. 23 E.,
Sec. 1;
Sec. 2;
Sec. 3 E½;
Sec. 11;
Sec. 12.
T. 33 N., R. 24 E.,
Sec. 17;
Sec. 18;
Sec. 19;
Sec. 20;
Sec. 29 W½;
Sec. 30;
Sec. 31 W½;
Sec. 31 N½.
T. 32 N., R. 24 E.,
Sec. 5;
Sec. 6 W½.

The following areas within the Burning Man event site are closed to discharge and display of firearms:

T. 33 N., R. 23 E.,
Sec. 1;
Sec. 2;
Sec. 35;
Sec. 36.
T. 32 N., R. 23 E.,
Sec. 11;
Sec. 12.

Vehicle travel is restricted to posted speed limits on the following public lands:

T. 33 N., R. 23 E.,
Sec. 25;
Sec. 28 SE¼, S½;
Sec. 35;
Sec. 36.
T. 32 N., R. 23 E.,
Sec. 1;
Sec. 2;
Sec. 3 E½;
Sec. 11;
Sec. 12.
T. 33 N., R. 24 E.,
Sec. 17;
Sec. 18;
Sec. 19;
Sec. 20;
Sec. 29 W½;
Sec. 30;
Sec. 31 W½;
Sec. 31 N½.
T. 32 N., R. 24 E.,
Sec. 5;
Sec. 6 W½.

The lands involved are located in the Mount Diablo Meridian and located north of Gerlach, Nevada. A map showing the temporary closure area is available from the following BLM office: Winnemucca Field Office, 5100 East Winnemucca Blvd., Winnemucca, Nevada 89445, (702) 623–1500.

Any person who fails to comply with this closure notice issued under 43 CFR Part 8364 may be subject to the penalties provided for in 43 CFR 8360.0–7.

**FOR FURTHER INFORMATION CONTACT:** Michael Bilbo, 5100 East Winnemucca

Blvd. Winnemucca, Nevada, 89445, (702) 623–1528/1500.

Dated: July 28, 1998.

**Colin P. Christensen,**

*Acting Field Office Manager, Winnemucca.*

[FR Doc. 98–21108 Filed 8–6–98; 8:45 am]

BILLING CODE 4310–HC–P

## DEPARTMENT OF THE INTERIOR

## Bureau of Land Management

## Final Environmental Impact Statement

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

**ACTION:** Notice of availability, final environmental impact statement for Newmont Gold Corporation's Trenton Canyon Project.

**SUMMARY:** Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, notice is given that the Winnemucca District of the Bureau of Land Management (BLM) has prepared, by third party contractor, and made available for a 30 day public review, the Final Environmental Impact Statement for Newmont Gold Company's Trenton Canyon Project, located in Humboldt and Lander Counties, Nevada.

**DATES:** The Final Environmental Impact Statement will be distributed and made available to the public on August 7, 1998. The period of availability for public review for the Final Environmental Impact Statement ends on September 8, 1998. At that time a Record of Decision will be issued regarding the Proposed Action.

**ADDRESSES:** A copy of the Final Environmental Impact Statement can be obtained from: Bureau of Land Management, Winnemucca District Office, 5100 East Winnemucca Boulevard, Winnemucca, Nevada 89445. The Final Environmental Impact Statement is available for inspection at the following locations: Bureau of Land Management Nevada State Office (Reno); Lander and Humboldt County Libraries; and the University of Nevada library in Reno, Nevada.

**FOR FURTHER INFORMATION CONTACT:** Rod Herrick, Project Manager, at the above Winnemucca District address or telephone (702) 623–1500.

**SUPPLEMENTARY INFORMATION:** The Final Environmental Impact Statement has been produced in the abbreviated format and must be used in conjunction with the Draft Environmental Impact Statement (DEIS), issued February 13, 1998. In addition, the Final provides responses to comments received by BLM during the public comment period on the Draft. The EIS analyzes the direct, indirect and cumulative impacts associated with the continued mining with expansion of the North Peak and Valmy deposits and commencement of mining in the Trenton deposit. Also analyzed are impacts related to new haul roads, overburden disposal areas, additional heap leach facilities, widening of the primary access road, and additional ancillary facilities.

Dated: July 30, 1998.

**Colin P. Christensen,**

*Winnemucca Acting Field Manager.*

[FR Doc. 98–21107 Filed 8–6–98; 8:45 am]

BILLING CODE 4310–HC–M

## DEPARTMENT OF THE INTERIOR

## Bureau of Land Management

**[AK–931–1310–00–NPRA]**

## Northeast National Petroleum Reserve—Alaska Final Integrated Activity Plan/Environmental Impact Statement

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

**ACTION:** Notice of Availability.

**SUMMARY:** The Bureau of Land Management announces the availability of the Northeast National Petroleum Reserve-Alaska Final Integrated Activity Plan/Environmental Impact Statement (IAP/EIS). The planning area is roughly bounded by the Colville River to the east and south, the Ikpikpuk River to the west and the Beaufort Sea to the north. The IAP/EIS contains a Preferred Alternative and five non-preferred alternatives for a land management plan for the 4.6 million-acre planning area and assessments of each alternative's impacts on the surface resources present there. These alternatives provide varying answers to two primary questions. First, what protections and enhancements will be implemented for natural and cultural resources and the activities that are based on these resources? Second, will the BLM conduct oil and gas lease sales in the planning area and, if so, what lands will be made available for leasing?

Under the Preferred Alternative leasing would be allowed in 87 percent of the planning area. Protection to habitats important to molting geese and the Teshekpuk Lake caribou herd would be provided by making them unavailable for leasing or by strict restrictions on oil and gas surface occupancy. In addition, surface use restrictions and other stipulations are applied to other habitats with high surface resource values. Included are important subsistence use areas such as Fish Creek, Judy Creek, and the Ikpikpuk and Miguakiak Rivers. Similar restrictions and stipulations are applied to the Colville, Kikiakrorak and Kogosukruk Rivers to protect raptor nesting and subsistence. The Secretary of the Interior is authorized to identify specific lands in the NPR-A as ''Special Areas,'' and the two previously designated Special Areas within the planning area will expand under the Preferred Alternative. Some land along the Kikiakrorak and Kogosukruk Rivers will be added to the Colville River Special Area and the Pik Dunes will be added to the Teshekpuk Lake Special area. The BLM is also proposing that it work with nearby Colville River land owners, including the State and Arctic Slope Regional Corporation, to create a Bird Conservation Area along part of the river under the Partners in Flight Program. The BLM will create a subsistence advisory panel to assist in addressing subsistence-related issues that arise in managing a leasing program in the study area. The stipulations included within the Preferred Alternative are modestly revised based on public comment, from those presented in the draft IAP/EIS for alternatives B-E. A close reading of these stipulations is necessary to fully understand the protections to key natural and subsistence resources provided by the Preferred Alternative.

Alternative A calls for no action, or no change from the status quo, and under it no leasing would occur. Alternatives B through E make progressively more land, and more environmentally sensitive land, available to possible leasing. Alternative B makes 52 percent of the planning area available, Alternative C makes 72 percent available, Alternative D makes 90 percent available and Alternative E makes the entire planning area available. Restrictive stipulations would provide protections for natural and cultural resources under all alternatives, but their number and scope would vary between alternatives.

Alternative A contains the fewest stipulations because it authorizes the fewest activities and entirely precludes leasing. As alternatives B through E make progressively more sensitive lands available for leasing, they also include increasing numbers of protective stipulations. Thus, while Alternative E opens the entire planning area to leasing it also has many specific stipulations whose intent is to ensure that sensitive natural resources are protected.

All non-preferred alternatives except Alternative A recommend that the Pik

Dunes be added to the Teshekpuk Lake Special Area and that the Ikpikpuk River be designated as a Special Area for its paleontological values.

Under various non-preferred alternatives, the BLM would recommend that Congress designate the Colville River a wild, scenic, or recreation river under the Wild and Scenic Rivers Act.

**ADDRESSES:** Comments on the final IAP/EIS will be accepted for a period of 30 days and must be postmarked no latter than September 8, 1998. Written comments on the document should be addressed to: NPR–A Planning Team, Bureau of Land Management, Alaska State Office (930), 222 West 7th Avenue, #13, Anchorage, Alaska 99513–7599. Comments can also be sent to the NPR–A website (http;//aurora.ak.blm.gov/npra/) or to Jim Ducker at jducker@ak.blm.gov.

**FOR FURTHER INFORMATION CONTACT:** Gene Terland (907–271–3344; gterland@ak.blm.gov) or Jim Ducker (907–271–3369; jducker@ak.blm.gov). They can be reached by mail at the Bureau of Land Management (930), Alaska State Office, 222 West 7th Avenue, #13, Anchorage Alaska 99513–7599.

**SUPPLEMENTARY INFORMATION:** Authority for developing this document is derived from the Federal Land Policy and Management Act, the Naval Petroleum Reserves Production Act of 1976, as amended, the National Environmental Policy Act (NEPA), and the Alaska National Interest Lands Conservation Act (ANILCA).

The BLM leased tracts in the NPR-A in 1982 and 1983 (all now expired), but halted a lease sale in 1984 when no acceptable bids were made. Recently, interest in a lease sale has increased as oil and gas infrastructure moved west. Soon a development at the Alpine Field, in the Colville River delta, will bring a pipeline to within 10 miles of the eastern boundary of the planning area. None of the federal lands in the planning area are currently available to oil and gas leasing because existing NEPA documentation is dated and inadequate to meet current standards. Should the BLM undertake a leasing program, this IAP/EIS will form the basic NEPA documentation to authorize leasing, and it will determine those lands that are available and those that are unavailable for leasing.

The preferred alternative presented in the document is a variation on the alternatives presented in the draft IAP/EIS, but all the actions it proposes fall within the range of actions considered by the non-preferred alternatives presented there. Public comments on the draft alternatives helped guide the selection of the Preferred Alternative.

Public participation has occurred throughout the period since the Notice of Intent to Prepare an Environmental Impact Statement was published on February 13, 1997. In addition to holding scoping meetings in Nuiqsit, Atqasuk, Barrow, Fairbanks and Anchorage several publicly attended workshops have addressed important issues within the planning area. The planning area provides particularly important habitat for caribou, waterfowl and other species and many of the local residents of the area rely on harvesting these resources for subsistence purposes. Ensuring adequate protection of these resources has been one of the driving forces behind workshops to seek input from a variety of public sources with expertise in related fields. Information from these workshops has also been helpful in developing this document.

Section 810 of the Alaska National Lands Conservation Act requires the BLM to evaluate the effects of the alternative plans presented in this IAP/EIS on subsistence activities in the planning area, and to hold public hearings if it finds that any alternative might significantly restrict subsistence activities. Appendix D of the document indicates that alternatives D and E meet the ''may significantly restrict'' threshold and, when the cumulative case is considered, all alternatives discussed in the document meet the threshold. The findings required by Section 810 of ANILCA are also included in this IAP/EIS. Public meetings were held during January in five North Slope villages, and in Fairbanks; Anchorage; Washington, DC; and San Francisco. In April, a public hearing on subsistence was held in Bethel, Alaska.

The BLM has worked very closely with the North Slope Borough and the State of Alaska in developing this IAP/EIS. The Mineral Management Service of the Department of the Interior assisted the BLM in developing the document.

Copies of the final IAP/EIS will be available in public libraries throughout the State of Alaska.

Dated: July 29, 1998.

**Sally Wisely,**

*Associate State Director.*

[FR Doc. 98–20722 Filed 8–6–98; 8:45 am]

BILLING CODE 4310–JA–P

## DEPARTMENT OF THE INTERIOR

## Bureau of Land Management

**[MT–910–1820–00]**

## Resource Advisory Council Meetings, Montana Councils and Dakotas Council; Montana, North Dakota and South Dakota

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

**ACTION:** Notice.

**SUMMARY:** In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972 (FACA), 5 U.S.C. Appendix, the Department of the Interior, Bureau of Land Management (BLM), has established four Resource Advisory Councils for the State of Montana, North Dakota and South Dakota.

The Montana Councils are: Butte Resource Advisory Council, Lewistown Resource Advisory Council and Miles City Advisory Council; North Dakota and South Dakota: Dakotas Resource Advisory Council.

These Councils provide representative counsel and advice to BLM on the planning and management of public lands. Members of these Councils were appointed by the Secretary of the Interior.

Members of the Montana and Dakotas Councils will gather to share common issues including travel management, land exchanges, weeds and access beginning at 1:00 p.m. September 15 through the afternoon of September 16. On September 17, the Montana Councils will hold their official meetings. The Dakotas Council will hold its official meeting the morning of September 15 and the morning of September 17. The four Councils will have their joint discussions at the GranTree Inn, 1325 N. 7th Ave., Bozeman, Montana. The individual Montana Councils will hold their official meetings at the Holiday Inn—Bozeman, 5 Baxter Lane, Bozeman, Montana. The September 15 portion of the Dakotas Council official meeting will be held at the GranTree and the September 17 portion of the meeting will be held at the Holiday Inn. The agendas for the Council meetings are as follows:

*Butte Resource Advisory Council*

The council will convene at 8:00 a.m. Thursday, September 17 at the Holiday Inn—Bozeman, 5 Baxter Lane, Bozeman, Montana. The main agenda topic will be travel management. The public comment period will begin at 11:00 a.m.

*Lewistown Resource Advisory Council*

The council will convene at 7:45 a.m. Thursday, September 17 at the Holiday Inn—Bozeman, 5 Baxter Lane. Agenda items include prairie dog issues, management issues on the Upper Missouri Wild and Scenic River, Standards and Guidelines, range improvements, Devil's Kitchen and tracts designated for disposal. The meeting will conclude at 3:00 p.m. The public comment period will begin at 11:30 a.m.

*Miles City Resource Advisory Council*

The council will convene from 8:00 a.m. until 12 noon Thursday, September 17 at the Holiday Inn—Bozeman, 5 Baxter Lane, Bozeman, Montana. The main agenda topic will be travel management. The public comment period will begin at 10:00 a.m.

*Dakotas Resource Advisory Council*

The council will meet Tuesday at the GranTree Inn, 1325 N. 7th Ave., Bozeman, Montana, September 15 from 8:00 a.m. until 12 noon. The council will reconvene at 8:00 a.m. Thursday, September 17 at the Holiday Inn—Bozeman, 5 Baxter Lane, Bozeman, Montana. Agenda items include travel management, land exchanges, weeds, joint Resource Advisory Council with the Forest Service. Public comment period will begin at 9:00 a.m., September 17.

All meetings are open to the public. The public may present written comments to any Council. Each Council meeting will also have time allocated for hearing public comments. The public comment period for each meeting is listed above. Depending on the number of persons wishing to comment and the time available, the time for individual comments may be limited. Individuals who plan to attend and need further information about the meetings, or need special assistance, such as sign language interpretations or other reasonable accommodations, should contact the Montana State Office, External Affairs, 222 N. 32nd Street, P.O. Box 36800, Billings, Montana 59107–6800, telephone, 406–255–2913. Seating at the meetings will be on a first-come basis.

**FOR FURTHER INFORMATION CONTACT:** Jody Weil, Public Affairs Specialist, Office of External Affairs, Montana State Office, Bureau of Land Management, 222 N. 32nd Street, P.O. Box 36800, Billings, Montana, 59107, telephone (406) 255–2913.

**SUPPLEMENTARY INFORMATION:** The purpose of the Councils is to advise the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with the management of public lands. The Councils' responsibilities include providing advice to BLM regarding the preparation, amendment and implementation of land use plans; providing advice on long-range planning and establishing resource management priorities; and assisting the BLM to identify State of regional standards for ecological health and guidelines for grazing.

Council members represent various industries and interests concerned with the management, protection and utilization of the public lands. These include (a) holders of Federal grazing permits and representatives of energy and mining development, the timber industry, rights-of-way interests, off-road vehicle use and developed recreation; (b) representatives of environmental and resource conservation organizations, archaeological and historic interests, and wild horse and burro groups; and (c) representatives of State and local government, Native American tribes, academia involved in the natural sciences, and the public at large.

Membership includes individuals who have expertise, education, training or practical experience in the planning and management of public lands and their resources and who have a knowledge of the geographical jurisdiction of the respective Councils.

Dated: July 31, 1998.

**Janet Singer,**

*Acting State Director.*

[FR Doc. 98–21219 Filed 8–6–98; 8:45 am]

BILLING CODE 4310–DN–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. 49 N., R. 66 W., accepted July 22, 1998
T. 49 N., R. 67 W., accepted July 22, 1998
T. 49 N., R. 68 W., accepted July 22, 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 section.

**FOR FURTHER INFORMATION CONTACT:** Bureau of Land Management, P.O. Box 1828, 5353 Yellowstone Road, Cheyenne, Wyoming 82003.

Dated: July 28, 1998.

**John P. Lee,**

*Chief Cadastral Survey Group.*

[FR Doc. 98–21054 Filed 8–6–98; 8:45 am]

BILLING CODE 4310–22–M

## DEPARTMENT OF LABOR

### Employment and Training Administration

### Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determination regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of July 1998.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) that a significant number or proportion of the workers in the workers' firm, or an appropriate

subdivision thereof, have become totally or partially separated,

(2) that sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

**Negative Determinations for Worker Adjustment Assistance**

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

*TA–W–34,496; P&H Mining Equipment, A Harnischfeger Industries Co., Milwaukee, WI*

*TA–W–34,539; Fox Point Sportswear, Wynn, AR*

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

*TA–W–34,706; Tarantola Trucking Co., Flemington, NJ*

*TA–W–34,698; National Garment Co., Distribution Center, Columbia, MO*

*TA–W–34,632; Mac Millan Bloedel Building Materials, Spokane Distribution Center, Spokane, WA*

*TA–W–34,568; MPM Automotive Products, Inc., Tucson, AZ*

*TA–W–34,619; ITT Cannon Connectors North America, Receiving Inspection Department, Nogales, AZ*

The workers firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

*TA–W–34,563; GL&V Black Clawson-Kennedy, Watertown, NY*

*TA–W–34,650; BTR Sealing Systems, Maryville, TN*

*TA–W–34,513; U.S. Timber Co., Camas Prairie Lumber Div. Boise, ID*

*TA–W–34,630; Kvaerner Metals, Engineering & Construction Div., Pittsburgh, PA. Including Leased Workers of IMC International, Inc., Monroeville, PA and Peak Technical, Pittsburgh, PA*

*TA–W–34,600; Kowa Printing Corp., Danville, IL*

*TA–W–34,730; Columbia Lighting, Houston, TX*

*TA–W–34,540; Tubed Products, Inc., Freehold, NJ*

*TA–W–34,655; TRI Americas, Inc., to a/k/a Try America, Inc., El Paso, TX*

*TA–W–34,542; Kachina Communication, Inc., Cottonwood, AZ*

*TA–W–34,642; Pittsburgh Tube Co., Monaca, PA*

*TA–W–34,595; Sunds Defibrator Woodhandling, Inc., dba Carthage Machine Co., Carthage, NY*

Increased imports did not contribute importantly to worker separations at the firm.

*TA–W–34,720; Continental Cabinets Manufacturing Group of America, Rensselaer, IN*

The parent company, Manufacturing Group of America, Inc. made a business decision to close the subject facility and consolidate manufacturing of unfinished vanities and cabinets in its facilities in Texas.

**Affirmative Determinations for Worker Adjustment Assistance**

The following certifications have been issued; the date following the company name and location of each determination references the impact date for all workers of such determination.

*TA–W–34,579; Zenith Electronics Corp, Rauland Picture Tube Div., Melrose Park, IL; May 11, 1997*

*TA–W–34,684; Shin-Etsu Polymer America, Inc., Union City, CA Including Leased Workers of Staff Search Personnel, Inc., Fremont, CA and Pro Staff Personnel Services, Newark, CA: June 12, 1997.*

*TA–W–34,679; L–K Wireline, Inc., Hays, KS: June 7, 1997.*

*TA–W–34,656; McCabe Packing Co., Springfield, IL: June 5, 1997.*

*TA–W–34,557; Forte Cashmere Co., Inc., Woonsocket, RI: May 6, 1998.*

*TA–W–34,694; TKC Apparel, Inc., Reidsville, GA: June 16, 1997.*

*TA–W–34,580; Siebe Appliance Controls, Assembly Operations, New Stanton, PA: May 7, 1997.*

*TA–W–34,637; Carol Ann Fashions, Inc., Hastings, PA: May 27, 1997.*

*TA–W–34,558; Berg Electronics, Clearfield, PA & Contact Workers from Manpower, Inc., Workering at Berg Electronics, Clearfield, PA: May 7, 1997.*

*TA–W–34,617; Virginia Apparel Corp., Rocky Mount, VA: May 27, 1997.*

*TA–W–34,634; Gould Electronics, Inc., Circuit Protection Group, Newburyport, MA: June 12, 1997.*

*TA–W–34,551; Phillips Van Heusen Corp., Augusta, AR: May 5, 1997.*

*TA–W–34,432; American West Trading Co., Waverly, TN: March 30, 1997.*

*TA–W–34,559; Cott Manufacturing Co., West Mifflin, PA: May 5, 1997.*

*TA–W–34,612; Wex-Tex Industries, Inc., Ashford, AL: May 19, 1997.*

*TA–W–34,597; Price Pfister, Pacoima, CA: April 18, 1998.*

*TA–W–34,553; Carleton Woolen Mills, Gardiner, ME: May 6, 1997.*

*TA–W–34,666; New Creations Co., Farmingdale, NY: June 3, 1997.*

*TA–W–34,715; Paragon Electronic Co., Two Rivers, WI: June 24, 1997.*

*TA–W–34,531; Western Reserve Products, Inc., Gallatin, TN: April 24, 1997.*

*TA–W–34,490; Metex Corp., Edison, NJ: March 28, 1997.*

*TA–W–34,527; The Gillette Co., Janesville, WI: April 23, 1997.*

*TA–W–34,510; Apache Corp., Franklin, LA: April 9, 1997.*

*TA–W–34,745; Parker Hannifin Corp., Hydraulic Valve Div., Niles, IL: June 25, 1997.*

*TA–W–34,607; Berg Electronics Group, Inc., RF Division, Franklin, IN: May 20, 1997.*

*TA–W–34,471 & A; Louisville Manufacturing, Inc., Louisville, KY and Salem, IN: April 7, 1997.*

*TA–W–34,753; Imperial Headwear, Inc., Denver, CO: June 23, 1997.*

*TA–W–34,635; Therm-O-Disc, Inc., Rittenhouse Div of Emerson Electric Co Including Temporary Employees of Kelly Services, Manpower, Inc and Extra Help, Honeoye Falls, NY: May 27, 1997.*

*TA–W–34,657; Cowtown Boot Co., Inc., El Paso, TX: May 28, 1997.*

*TA–W–34,674; Donnkenny Apparel, Inc., Lee County Plant, Dryden, VA: June 9, 1997.*

*TA–W–34,622; Creative Apparel, Andrews, SC: May 19, 1997.*

*TA–W–34,582 & A; Phillips-Van Heusen Corp., Geneva, AL and Ozark, AL: May 14, 1997.*

*TA–W–34,672 & A & B; Henderson Sewing Machine Co., Inc., Andalusia, AL and Sales Divisions Located in Multrie, GA, and Maryville, TN: May 26, 1997.*

*TA–W–34,696; Calgon Carbon Corp., Neville Island Plant, Pittsburgh, PA: June 10, 1997.*

Also, pursuant to Title V of the North American Free Trade Agreement Implementation Act (P.L. 103–182) concerning transitional adjustment assistance hereinafter called (NAFTA–TAA) and in accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for NAFTA–TAA issued during the month of July, 1998.

In order for an affirmative determination to be made and a certification of eligibility to apply for NAFTA–TAA the following group eligibility requirements of Section 250 of the Trade Act must be met:

(1) that a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, (including workers in any agricultural firm or appropriate subdivision thereof) have become totally or partially separated from employment and either—

(2) that sales or production, or both, of such firm or subdivision have decreased absolutely,

(3) that imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivision have increased, and that the increases imports contributed importantly to such workers' separations or threat of separation and to the decline in sales or production of such firm or subdivision; or

(4) that there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

**Negative Determinations NAFTA–TAA**

In each of the following cases the investigation revealed that criteria (3) and (4) were not met. Imports from Canada or Mexico did not contribute importantly to workers' separations. There was no shift in production from the subject firm to Canada or Mexico during the relevant period.

*NAFTA–TAA–02469; Columbia Lighting, Houston, TX*
*NAFTA–TAA–02315; Beloit Corp., Millpro Services Div., Beloit, WI*
*NAFTA–TAA–02453; Accuride Corp., Henderson, KY*
*NAFTA–TAA–02354; The Gillette Co., Janesville, WI*
*NAFTA–TAA–02368; U.S. Timber Co., Camas Prairie Lumber Div., Boise, ID*
*NAFTA–TAA–02414; Sunds Defibrator Woodhandling, Inc., dba Carthage Machine Co., Carthage, NY*

The investigation revealed that the criteria for eligibility have not been met for the reasons specified.

*NAFTA–TAA–02384; MPM Automotive Products, Inc., Tucson, AZ*
*NAFTA–TAA–02422; MacMillan Bloedel Building Materials, Spoke Distribution Center, Spokane, WA*
*NAFTA–TAA–02457; National Garment Co., Distribution Center, Columbia, MO*
*NAFTA–TAA–02452; Tarantola Trucking Co., Flemington, NJ*
*NAFTA–TAA–02420; ITT Cannon Connectors North America, Receiving Inspection Department, Nogales, AZ*

The investigation revealed that the workers of the subject firm did not produce an article within the meaning of Section 250(a) of the Trade Act, as amended.

**Affirmative Determinations NAFTA–TAA**

*NAFTA–TAA–02481; Parker Hannifin Corp., Hydraulic Valve Div., Niles, IL: July 6, 1997.*
*NAFTA–TAA–02458; Trident Automotive Corp., Blytheville, AR: June 18, 1997.*
*NAFTA–TAA–02451; Teledyne Electronic Technologies, Scottsdale, AS: June 17, 1997.*
*NAFTA–TAA–02459; Bennett Uniform Mfg., Inc., Greensboro, NC: June 19, 1997.*
*NAFTA–TAA–02456; Durotest Lighting, Div. Of Durotest Corp., Clifton, NJ: June 11, 1997.*
*NAFTA–TAA–02358; Western Reserve Products, Inc., Gallatin, TN: April 27, 1997.*
*NAFTA–TAA–02429; Cowtown Boot Co., Inc., El Paso, TX: June 1, 1997.*
*NAFTA–TAA–02499; Sheldahl, Inc., Northfield, MN: July 9, 1997.*
*NAFTA–TAA–02465; Paragon Electric Co., Two Rivers, WI: June 24, 1997.*
*NAFTA–TAA–02304; Metex Corp., Edison, NJ: March 24, 1997.*
*NAFTA–TAA–02439; Berg Electronics Group, Inc., RF Division, Franklin, IN: June 5, 1997.*

I hereby certify that the aforementioned determinations were issued during the month of July 1998. Copies of these determinations are available for inspection in Room C–4318, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: July 30, 1998.

**Grant D. Beale,**

*Acting Director, Office of Trade Adjustment Assistance.*

[FR Doc. 98–21221 Filed 8–6–98; 8:45 am]

BILLING CODE 4510–30–M

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## DEPARTMENT OF LABOR

### Employment and Training Administration

**[TA–W–34,723]**

### Conner Forest Industries, Inc., Wakefield, Michigan; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on July 6, 1998, in response to a petition by a company official filed on the same date on behalf of workers at Conner Forest Industries, Inc., Wakefield, Michigan.

A certification applicable to the petitioning group of workers, employed at Conner Forest Industries, Inc., Wakefield, Michigan, was issued on September 12, 1996, and is currently in effect (TA–W–32,593). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, D.C. this 7th day of July, 1998.

**Grant D. Beale,**

*Acting Director, Office of Trade Adjustment Assistance.*

[FR Doc. 98–21227 Filed 8–6–98; 8:45 am]

BILLING CODE 4510–30–M

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## DEPARTMENT OF LABOR

### Employment and Training Administration

**[TA–W–34,701]**

### Gorge Lumber Company, Portland, OR; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) as amended by the Omnibus Trade and Competitiveness Act of 1988 (P.L. 100–418), the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is determined in this case that all of the requirements have been met.

The investigation was initiated in response to a petition received on June 29, 1998, on behalf of workers and former workers at George Lumber Company, Portland, Oregon. The workers were engaged in the production of wholesale lumber.

Sales and production of wholesale lumber at the subject firm declined from Jan–June 1998 compared to Jan–June 1997.

The subject firm increased reliance on imports of lumber from Canada during the relevant time periods.

**Conclusion**

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with wholesale

lumber produced at Gorge Lumber Company, Portland, Oregon contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Gorge Lumber Company, Portland, Oregon, who became totally or partially separated from employment on or after June 15, 1997 through two years from the date of certification are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed in Washington, DC this 10th day of July, 1998.

**Grant D. Beale,**

*Acting Director, Office of Trade Adjustment Assistance.*

[FR Doc. 98–21228 Filed 8–6–98; 8:45 am]

BILLING CODE 4510–30–M

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## DEPARTMENT OF LABOR

### Employment and Training Administration

**[TA–W–34, 748]**

### Magnetek Manufacturing, Medenhall, MS; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on July 13, 1998, in response to a work petition which was filed on behalf at Magnetek Manufacturing, Medenhall, Mississippi.

All workers at the subject firm are covered under an existing certification (TA–W–32, 639) which is valid until August 26, 1998. All worker separations at the plant have occurred prior to that date. Consequently further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, D.C. this 28th of July, 1998.

**Grant D. Beale,**

*Acting Director, Office of Trade Adjustment Assistance.*

[FR Doc. 98–21226 Filed 8–6–98; 8:45 am]

BILLING CODE 4510–30–M

## DEPARTMENT OF LABOR

### Employment and Training Administration

**[TA–W–34,636]**

### McCreary Manufacturing Company, Monticello Manufacturing Company, Incorporated, Stearns, KY; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the U.S. Department Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on June 22, 1998 applicable to all workers of McCreary Manufacturing Company located in Stearns, Kentucky. The notice will be published soon in the **Federal Register**.

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers were engaged in the production of men's shirts and ladies' blouses. Company information shows that Monticello Manufacturing Company, Inc., Monticello, Kentucky is the parent firm of McCreary Manufacturing Company, located in Stearns, Kentucky. New Information provided by the State shows that some workers separated from employment at McCreary Manufacturing Company had their wages reported under a separate unemployment insurance (UI) tax account at Monticello Manufacturing Company, Inc., Monticello, Kentucky. Based on these findings, the Department is amending the certification to include workers from Monticello Manufacturing Company, Inc.

The intent of the Department's certification is to include all workers of McCreary Manufacturing Company who were adversely affected by increased imports of men's shirts and ladies' blouses.

The amended notice applicable to TA–W–34,636 is hereby issued as follows:

All workers of McCreary Manufacturing Company and Monticello Manufacturing Company, Incorporated, Stearns, Kentucky who became totally or partially separated from employment on or after May 28, 1997 through June 22, 2000 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington D.C. this 27th day of July 1998.

**Grant D. Beale,**

*Acting Director, Office of Trade Adjustment Assistance.*

[FR Doc. 98–21220 Filed 8–6–98; 8:45 am]

BILLING CODE 4510–30–M

## DEPARTMENT OF LABOR

### Employment and Training Administration

**[NAFTA–02455]**

### Gorge Lumber Company, Portland, OR; Certification Regarding Eligibility To Apply for NAFTA-Transitional Adjustment Assistance

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (P.L. 103–182) concerning transitional adjustment assistance, hereinafter called NAFTA–TAA and in accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2331), the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for NAFTA–TAA.

In order to make an affirmative determination and issue a certification of eligibility to apply for NAFTA–TAA, the group eligibility requirements in either paragraph (a)(1)(A) or (a)(1)(B) of Section 250 of the Trade Act must be met. It is determined in this case that the requirements of (a)(1)(A) of Section 250 have been met.

The investigation was initiated on June 16, 1998, in response to a petition filed on behalf of workers at Gorge Lumber Company, Portland, Oregon. Workers at the subject firm were engaged in the production of wholesale lumber.

The investigation revealed that the subject firm relied on imports of lumber from Canada while decreasing sales, production and employment during the relevant periods.

Trade Adjustment Assistance (TAA) investigation (TA–W–34,701) is currently in progress for workers at the subject firm. A decision will be made concurrently with this decision.

**Conclusion**

After careful review of the facts obtained in the investigation, I conclude that there was an increase in company imports from Canada of articles that are like or directly competitive with those produced by the subject firm. In accordance with the provisions of the Trade Act, I make the following certification:

All workers at Gorge Lumber Company, Portland, Oregon who became totally or partially separated from employment on or after June 15, 1997 are eligible to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974.

Signed at Washington, D.C., this 10th day of July 1998.

**Grant D. Beale,**

*Acting Director, Office of Trade Adjustment Assistance.*

[FR Doc. 98–21225 Filed 8–6–98; 8:45 am]

BILLING CODE 4510–30–M

## DEPARTMENT OF LABOR

### Employment and Training Administration

### Levi Strauss & Company; Amended Certification Regarding Eligibility To Apply for NAFTA-Transitional Adjustment Assistance

In accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), the Department of Labor issued a Certification of Eligibility to Apply for NAFTA Transitional Adjustment Assistance on August 7, 1997, applicable to workers of Levi Strauss and Company, located in El Paso, Texas. The notice was published in the **Federal Register** on September 17, 1997 (62 FR 48889). The certification was subsequently amended to include the subject firm workers at the El Paso Field Headquarters in El Paso, Texas. The amendment was issued on September 14, 1997 and published in the **Federal Register** on September 30, 1997 (62 FR 51161).

At the request of the company, the Department reviewed the certification for workers of the subject firm. New information received by the company shows that worker separations for those workers engaged in the manufacture of Dockers have also occurred, as well as separations from companies doing contract work at these Levi Strauss locations. Based on this new information, the Department is amending the certification to cover the subject firm's Docker workers as well as contract workers at the approved Levi Strauss facilities.

The intent of the Department's certification is to include all workers of Levi Strauss and Company, including contract workers, who were adversely affected by increased imports from Mexico.

The amended notice applicable to NAFTA–01807 is hereby issued as follows:

All workers of Levi Strauss and Company, including Dockers and temporary or contract workers at the following facilities, who became totally or partially separated from employment on or after July 9, 1996 through August 7, 1999 are eligible to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974:

NAFTA–01807K SAN FRANCISCO PLANT, San Francisco, CA 94103
NAFTA–01807L BLUE RIDGE PLANT, Blue Ridge, GA 30513
NAFTA–01807M VALDOSTA PLANT, Valdosta, GA 31601
NAFTA–01807N ROSWELL PLANT including RON'S PLACE, Roswell, NM 88201
NAFTA–01807O ALBUQUERQUE PLANT including THE PIT STOP Albuquerque, NM 87113
NAFTA–01807U WARSAW PLANT, Warsaw, VA 22572
NAFTA–01807Y FAYETTEVILLE PLANT including LIFESTYLES, and OFFICE FOR THE BLIND &VISUALLY IMPAIRED OF THE STATE OF ARKANSAS, Fayetteville AR
NAFTA–01807Z HARRISON PLANT including STAN PARTRIDGE CAFETERIA SERVICES, Harrison, AR
NAFTA–01807AB LEVI STRAUSS PRINT SHOP, Miami Lakes, FL.

Signed in Washington, DC this 15th day of April, 1998.

**Grant D. Beale,**

*Acting Director, Office of Trade Adjustment Assistance.*

[FR Doc. 98–21222 Filed 8–6–98; 8:45 am]

BILLING CODE 4510–30–M

## DEPARTMENT OF LABOR

### Employment and Training Administration

### Levi Strauss & Company; Amended Certification Regarding Eligibility To Apply for NAFTA-Transitional Adjustment Assistance

In accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), the Department of Labor issued a Certification of Eligibility to Apply for NAFTA Transitional Adjustment Assistance on August 7, 1997, applicable to workers of Levi Strauss and Company, located in El Paso, Texas. The notice was published in the **Federal Register** on September 17, 1997 (62 FR 48889). The certification was subsequently amended to include the subject firm workers at the El Paso Field Headquarters in El Paso, Texas. The amendment was issued on September 14, 1997 and published in the **Federal Register** on September 30, 1997 (62 FR 51161).

At the request of the company, the Department reviewed the certification for workers of the subject firm. New information received by the company shows that worker separations for those workers engaged in the manufacture of Dockers have also occurred, as well as separations from companies doing contract work at these Levi Strauss locations. Based on this new information, the Department is amending the certification to cover the subject firm's Docker workers as well as contract workers at the approved Levi Strauss facilities.

The intent of the Department's certification is to include all workers of Levi Strauss and Company, including contract workers, who were adversely affected by increased imports from Mexico.

The amended notice applicable to NAFTA–01807 is hereby issued as follows:

All workers of Levi Strauss and Company, including Dockers and temporary or contract workers at the following facilities, who became totally or partially separated from employment on or after July 9, 1996 through August 7, 1999 are eligible to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974:

NAFTA–01807P CENTERVILLE PLANT, including ADAMS JANITORIAL SERVICES and FRANKS VENDING SERVICES, Centerville, TN 37033
NAFTA–01807Q KNOXVILLE SEWING PLANT, including CANTEEN FOOD SERVICES, GUARDSMARK, INC., and IH SERVICES, INC., Knoxville, TN 37917
NAFTA–01807R KNOXVILLE FINISHING PLANT, including CANTEEN FOOD SERVICES, MASTER AMERICA, and GUARDSMARK, Knoxville, TN 37917
NAFTA–01807S MOUNTAIN CITY PLANT, Mountain City, TN 37683
NAFTA–01807T POWELL PLANT, Powell, TN 37849

Signed in Washington, DC this 15th day of April, 1998.

**Grant D. Beale,**

*Acting Director, Office of Trade Adjustment Assistance.*

[FR Doc. 98–21223 Filed 8–6–98; 8:45 am]

BILLING CODE 4510–30–M

## DEPARTMENT OF LABOR

### Employment and Training Administration

### Levi Strauss and Company; Amended Certification Regarding Eligibility To Apply for NAFTA-Transitional Adjustment Assistance

In accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 USC 2273), the Department of Labor issued a Certification of Eligibility to Apply for NAFTA Transitional Adjustment Assistance on August 7, 1997, applicable to workers of Levi Strauss and Company, located in El Paso, Texas. The notice was published in the **Federal Register** on September 17, 1997 (62 FR 48889). The certification was subsequently amended to include the

subject firm workers at the El Paso Field Headquarters in El Paso, Texas. The amendment was issued on September 14, 1997 and published in the **Federal Register** on September 30, 1997 (62 FR 51161).

At the request of the company, the Department reviewed the certification for workers of the subject firm. New information received by the company shows that worker separations for those workers engaged in the manufacturer of Dockers have also occurred, as well as separations from companies doing contract work at these Levi Strauss locations. Based on this new information, the Department is amending the certification to cover the subject firm' Docker workers as well as contract workers at the approved Levi Strauss facilities.

The intent of the Department's certification is to include all workers of Levi Strauss and Company, including contract workers, who were adversely affected by increased imports from Mexico.

The amended notice applicable to NAFTA–01807 is hereby issued as follows:

All workers of Levi Strauss and Company, including Dockers and temporary or contract workers at the following facilities, who became totally or partially separated from employment on or after July 9, 1996 through August 7, 1999 are eligible to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974:

NAFTA–01807 Goodyear Cutting Facility, El Paso, TX 79936
NAFTA–01807A Pellicano Finishing Facility, El Paso, TX 79936
NAFTA–01807B Lomaland Plant, including Window Pros, Guardsmark, Inc., EAP Independent Counselor, and Judith's Cafeteria, El Paso, TX 79935
NAFTA–01807C Eastside Plant, including Texas Commission for the Blind, El Paso, TX 79915
NAFTA–01807D Cypress Plant, El Paso, TX 79905
NAFTA–01807E Airway Plant, including Texas Commission for the Blind, Office of Janitorial Services, and Independent EAP Counselor, El Paso, TX 79925
NAFTA–01808F Amarillo Finishing Plant, Amarillo, TX 79107
NAFTA–01807G Brownsville Plant, Brownsville, TX 78521
NAFTA–01807H Harlingen Plant, Harlingen, TX 78550
NAFTA–01807I San Angelo Plant, including Classic Food Service, San Angelo, TX 76905
NAFTA–01807J San Antonio Finishing Center, San Antonio, TX 78227
NAFTA–01807V San Antonio Plant, San Antonio, TX 78227
NAFTA–01807W Kastrin Street Plant, El Paso, TX 79907
NAFTA–01807X San Benito Plant, San Benito, TX 78586
NAFTA–01807AA Dallas CF Regional Office, Dallas, TX 75252.''

Signed in Washington, DC, this 15th day of April 1998.

**Grant D. Beale,**

*Acting Director, Office of Trade Adjustment Assistance.*

[FR Doc. 98–21224 Filed 8–6–98; 8:45 am]

BILLING CODE 4510–30–M

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## DEPARTMENT OF LABOR

### Employment Standards Administration/Wage and Hour Division

### Minimum Wages for Federal and Federally Assisted Construction; General wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisons of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under the Davis-Bacon And Related Act,'' shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, N.W., Room S-3014, Washington, D.C. 20210.

### Modifications to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis-Bacon and Related Acts'' being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

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## General Wage Determination Publication

General Wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon and Related Acts.'' This publication is available at each of the 50 Regional Government Depository LIbraries across the country.

The general wage determinations issued under the Davis-Bacon and related Acts are available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1–800–363–2068

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the seven separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates are distributed to subscribers.

Signed at Washington, D.C. this 30th day of July 1998.

**Carl J. Polesky,**

*Chief, Branch of Construction Wage Determinations.*

[FR Doc. 98–20930 Filed 8–6–98; 8:45 am]

BILLING CODE 4510–27–M

## NUCLEAR REGULATORY COMMISSION

### Public Comment on the Integrated Review of the Assessment Process for Commercial Nuclear Power Plants

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Request for public comment.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) is performing an integrated review of the assessment process (IRAP) to develop a new method for assessing licensee performance at

commercial nuclear power plants. In parallel with this effort, the staff is developing several new assessment tools that can be used in an integrated process. These additional assessment tools include risk-informed assessment guidance, trending methodology, and financial indicators. Public comments are requested on the development of a new assessment process and these associated assessment tools. The NRC is soliciting comments from interested public interest groups, the regulated industry, States, and concerned citizens. The NRC staff will consider comments received in developing a final proposal for a new assessment process.

**DATES:** The comment period expires October 6, 1998. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

**ADDRESSES:** Submit written comments to: Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, Mail Stop: T–6D–59, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Hand deliver comments to: 11545 Rockville Pike, Rockville, Maryland, between 7:45 a.m. and 4:15 p.m. on Federal workdays. Copies of comments received may be examined at the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Timothy J. Frye, Mail Stop: O–5H–4, Inspection Program Branch, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Telephone 301–415–1287.

**SUPPLEMENTARY INFORMATION:**

## Background

Over the years, the NRC has developed and implemented different licensee performance assessment processes to address the specific assessment needs of the agency at the time. The systematic assessment of licensee performance (SALP) process was implemented in 1980 following the accident at Three Mile Island to allow for the systematic, long-term, integrated evaluation of overall licensee performance. The senior management meeting (SMM) process was implemented in 1986 following the loss-of-feedwater event at Davis-Besse to allow those plants whose performance was of most concern to be brought to the attention of the highest levels of NRC management in order to plan a coordinated agency course of action. The plant performance review (PPR) process was implemented in 1990 to allow for periodic adjustments in NRC inspection focus in response to changes in licensee performance and emerging plant issues.

Each of these assessment processes serves a useful purpose and has evolved individually over time through separate reviews and improvements. However, overlaps between these processes now exist such that they (1) have multiple structures for data analysis and different assessment criteria, (2) have different outputs which can send mixed messages on licensee performance, and (3) place significant administrative burdens on the NRC staff. Although each of the current assessment processes has been individually successful at meeting its particular purpose, an integrated review of these processes has not been performed.

## Integrated Review of the Assessment Process

In September 1997, the NRC began an integrated review of the assessment processes used for commercial nuclear power plant licensees. A cross-disciplinary team of NRC staff members was assembled to identify and evaluate potential improvements to how licensee performance is assessed by the NRC. A process re-engineering approach was taken by the team to identify the desired objectives of a new assessment process, the attributes it should possess, and criteria to measure improvement over the existing assessment processes.

The team developed a conceptual design for a new integrated assessment process and presented it to the NRC Commissioners in Commission paper SECY–98–045, dated March 9, 1998. This Commission paper requested the Commission's approval to solicit public input on the proposed concepts. On April 2, 1998, the staff briefed the Commission on the concepts for a new assessment process as discussed in the paper.

On June 30, 1998, the Commission issued a staff requirements memorandum (SRM) in response to SECY–98–045 that approved the staff's request to solicit public comment on the concepts presented in the Commission paper. The SRM, the Commission voting record, and the comments of the Commissioners regarding SECY–98–045 are attached. Upon completion of the public comment period, the NRC will develop a final recommendation to the Commission for changes to the assessment process.

## Risk-Informed Assessment Guidance

The NRC issued a policy statement on the use of probabilistic risk assessment (PRA) methods in nuclear regulatory activities in SECY–95–126, dated May 18, 1995. The statement presents the policy that the use of PRA technology in NRC regulatory activities should be increased to the extent supported by the state of the art in PRA methods and data and in a manner that complements the NRC's deterministic approach. Consistent with that policy, the staff has developed guidance, based on risk insights, for assessing the findings and issues contained in the Plant Issues Matrix. This guidance is entitled ''Guidance for Assessing the Risk Inherent in Plant Performance'' and is available as Appendix B to the report ''Concepts Developed by the Integrated Review of Assessment Process for Commercial Nuclear Power Plants,'' dated July 29, 1998. The guidance is intended to help NRC staff develop a risk-informed perspective on plant performance so that that perspective will be part of the NRC's process for reviewing licensee performance.

## Indicators

In an SRM dated June 28, 1996, the Commission directed the staff to assess the SMM process and evaluate the development of indicators that can provide a basis for judging whether a plant should be placed on or deleted from the NRC Watch List. In response to this request, the staff developed several new assessment tools, such as trending methodologies and economic indicators.

Studies were undertaken to develop trending methodologies that provide more objective and scrutable information on plant performance. The trend model is recommended as a tool for quantitatively identifying candidate plants for further discussion by senior NRC managers during the licensee performance review process. The trend methodology is based on the trend model suggested by the Arthur Andersen Company in its original review of the SMM process (Arthur Andersen, ''Recommendations to Improve the Senior Management Meeting Process,'' December 30, 1996.) The regression model is recommended as a quality control measure for the trend model, as well as possibly identifying additional plants that warrant further discussion. The regression model estimates the probability that a plant's current performance should be further discussed during the SMM, based on the experience with plants that were discussed during previous SMMs.

A set of site-related financial variables was developed for use in the licensee performance review process. Comparison of the trends of these

financial variables to earlier single-unit and multi-unit median trends in the nuclear industry pointed to financial trends and patterns that had often preceded decisions to discuss a plant at past SMMs. However, no financial model is recommended for use alone in determining those plants that warrant further discussion during the SMM.

These methodologies were originally developed for use by the SMM process, but are equally applicable in an integrated assessment process. The use of the trending methodologies can be one part of a larger integrated assessment process that may consider both quantitative and qualitative information during the licensee performance review process. The trending methodologies and financial indicators are not intended to be the precise definitive identifying elements. Rather, they are designed to help identify candidate plants for further discussion by senior NRC managers and rely on the remaining elements of an integrated assessment process to complete the identification process.

Details of the development efforts for the various trending methodologies and financial indicators are described in three draft reports that are contained in Appendices A and E of the report ''Concepts Developed by the Integrated Review of Assessment Process for Commercial Nuclear Power Plants,'' dated July 29, 1998. Specifically, details of a trend model are contained in ''Draft Report—Development and Findings of the Performance Trending Methodology,'' dated February 27, 1998. Details of a regression model are contained in ''A Modeling Approach for Identifying Plants for Senior Management Discussion Using Performance Indicator Data,'' dated March 1998. Details of a set of financial trend variables are contained in ''Draft Special Study—Methodology for Identifying Financial Variables for Trend Analysis,'' dated May 1998.

**Industry Proposal**

In parallel with staff work on the IRAP and the development of other assessment tools, the industry has independently developed a proposal for a new assessment and regulatory oversight process. This proposal would take a risk-informed and performance-based approach to the inspection, assessment, and enforcement of licensee activities based on the results of a set of performance indicators. This proposal is being developed by the Nuclear Energy Institute and is further described in ''Minutes of the July 28, 1998 Meeting With the Nuclear Energy Institute to Discuss Performance Indicators and Performance Assessment,'' dated July 30, 1998.

**Scope of the Public Comment Period**

The NRC staff has developed a concept for an integrated assessment process as presented in SECY–98–045. Additional information on the integrated assessment process is described in the report ''Concepts Developed by the Integrated Review of Assessment Process for Commercial Nuclear Power Plants,'' dated July 29, 1998. This report provides additional draft details of an integrated assessment process and describes how new assessment tools such as the trending methodology and risk-informed assessment guidance could be factored into the process.

The Commission has provided its views on this concept, along with its general views on licensee performance assessment in the attached SRM, the Commission voting record, and the comments of the Commissioners. This public comment period will focus on obtaining industry and public comments on how the NRC should assess licensee performance and other potential changes to the regulatory oversight process.

As part of the public comment period, two public workshops are tentatively scheduled to be held in September 1998. One is currently planned to be held at the NRC Headquarters office with the other one held in the vicinity of the Region III office. Additional details on the dates, locations, and scope of these workshops will be provided at a later date, as they become available.

The NRC seeks specific public comment and feedback on the topics highlighted in the questions below. Commenters are not limited to, or obligated to address every issue discussed in the questions. In providing comments, please key your response to the number of the applicable question (*e.g.*, ''Response to A.1.a.''). Comments should be as specific as possible. The use of examples is encouraged.

Comments are requested on the following issues:

*A. Regulatory Oversight Approach*

1. The NRC currently has a low threshold for initiating increased interaction with licensees above the core inspection program. For example, procedure adherence errors or program implementation weaknesses with low actual safety consequence may result in increased inspection activity in these areas. Alternatively, if these regulatory oversight thresholds were raised, the NRC would wait until actual safety significant events occurred (such as those measured by performance indicators) before increasing interaction with licensees.

a. At what threshold should the NRC take action to assure the adequate protection of public health and safety?

b. What is the basis for this threshold?

2. What range and specific types of NRC actions should be taken if licensees exceed the regulatory thresholds discussed in Question A.1?

3. The current regulatory oversight process focuses discretionary inspection resources on a selective sample of all aspects of licensee performance, such as human performance, procedure quality, and program implementation.

a. Could an enhanced use of high level performance indicators (*e.g.* operational transients and safety system availability) reduce the need for discretionary inspection if particular levels of licensee performance are achieved?

b. Would this approach result in a regulatory oversight process which is timely and comprehensive enough to assure the adequate protection of the public health and safety?

4. What should the role of licensee audits, inspections, and self-assessments be in the regulatory oversight process?

5. Would an enhanced use by the NRC of licensee audits, inspections, and self-assessments (and a corresponding reduction in NRC discretionary inspection) result in a regulatory oversight process that was sufficiently independent?

*B. Integrated Assessment Process*

1. Objectives and Attributes

a. The objectives developed by the staff for an integrated assessment process include the following: (1) Provide early warning of declining licensee performance and promote prompt, timely corrective action; (2) provide checks and balances with other processes; (3) allow for the integration of inspection findings and other relevant information; (4) focus NRC's attention on those plants with declining or poor performance; (5) effectively communicate assessment results to the licensees and the public; and (6) allow for effective resource allocation. What changes could be made to these objectives and why?

b. The new integrated assessment process would not formally recognize superior licensee performance, nor would it include a Watch List. Should the NRC recognize superior licensee performance?

c. The integrated assessment process would not provide a measure of how

good licensee performance was. This was due in part to the significant resources involved and the lack of clear guidance against which good performance can be measured. Therefore, performance issues involving solely good or neutral licensee performance would not be included in the evaluation. To what extent and how should positive inspection findings be factored into an assessment process?

d. The integrated assessment process would include an assessment report for each licensee and a public meeting with the licensee to review this assessment. How should the NRC's assessment results be communicated to the licensees and to the public?

e. The integrated assessment process would provide several opportunities for the licensee and the public to be made aware of the issues being considered and to provide feedback and input on these issues and assessment results. What are the most desirable ways to include licensee and public input and feedback during the implementation of the assessment process?

2. Assessment Criteria

a. In the integrated assessment process, a plant performance matrix is used to categorize performance findings into assessment areas in order to provide better structure for the information and to better communicate assessment results. What additional or alternate information should be used and how should it be integrated?

b. Under the integrated assessment process, individual performance issues were numerically graded on the basis of safety and regulatory significance. As stated in the SRM for SECY–98-045 dated June 30, 1998, the Commission did not approve of this approach. Are there alternate methods by which the NRC could provide a quantitative input into the assessment process so that the significance of issues can be assigned in a scrutable way?

c. In developing a new assessment process, it was essential that the results of the assessment could be clearly communicated to the licensees and the public. The staff chose color category ratings for each assessment area for the integrated assessment process. As stated in the SRM for SECY–98–045 dated June 30, 1998, the Commission did not approve of this approach. What alternate presentations could be used to clearly convey the results of licensee performance assessments?

3. Decision Model

The staff developed a decision model to provide for a structured and predictable application of NRC actions in response to assessment results. Are there additional or better ways to optimize the scrutability and predictability of the NRC outcomes of the assessment process?

4. Assessment Periodicity

The staff recommended that an annual performance assessment be performed for each plant to allow for a periodic assessment report and a public meeting to discuss the assessment results. Is there a more appropriate periodicity for accurately assessing changes in licensee performance?

5. Success Criteria

a. The integrated assessment process was designed to produce NRC assessments that are more scrutable and predictable. For comparison, how scrutable, predictable, and objective are the current assessment processes?

b. The integrated assessment process was intended to be less resource intensive for both the NRC and the licensee. How do the estimated licensee costs compare with the costs of the existing assessment processes?

*C. Risk-Informed Assessment Guidance*

1. Effective risk management is necessary to ensure the safe operation of nuclear power plants. How should indications of risk-management performance be considered in the assessment of plant safety?

2. One aspect of a risk-informed regulatory process is that plant performance measures are considered commensurate with their impact on plant safety and risk. Are the questions presented in ''Guidance for Assessing the Risk Inherent in Plant Performance'' sufficient to ensure that inspection findings are interpreted in a risk-informed manner?

3. Regulatory Guide 1.174, ''An Approach for Using Probabilistic Risk Assessment in Risk-Informed Decisions on Plant-Specific Changes to the Current Licensing Basis,'' presents a framework, principles, and staff expectations relative to regulatory decisionmaking.

a. What role, if any, should such guidance play in risk-informed assessments of plant performance?

b. What role should PRA techniques and risk metrics play in the assessment of plant performance?

4. How should patterns of degrading human performance, equipment performance, and risk management at a nuclear power plant be factored into the plant performance assessment process?

5. Are the questions raised in ''Guidance for Assessing the Risk Inherent in Plant Performance'' sufficient to provide a risk-informed assessment of plant safety that addresses the influence of human performance and equipment performance on plant safety?

*D. Indicators*

1. General

The trending methodologies can be used as part of an integrated assessment process that uses both quantitative and qualitative information. The trending methodologies are not intended to be used in isolation as the only definitive identifying element in plant performance assessment.

a. How should the NRC use quantitative measures of performance?

b. What methodologies and/or performance measures would be useful to quantitatively monitor plant performance trends?

2. Trending Methodology

a. The staff considered more than 20 variables during the development of both the trend and the regression models.

1. Are there other variables that should be considered?

2. Are the data for the suggested variables publicly available?

3. Are the data for the suggested variables reported to the NRC?

4. How frequently are the data for the suggested variables available (e.g., daily, weekly, quarterly, annually, etc.)?

b. The staff considered a variety of time periods for monitoring plant performance during the development of the trend model. The proposed trend model uses a four-quarter moving average. Should a different time period be used?

c. The proposed trend model uses a ''hit'' threshold that is based on a fixed 2-year average of one standard deviation beyond the quarterly industry mean for the period from July 1995 through June 1997. Should a different threshold be used?

d. The proposed trend model uses a discussion candidate threshold value of two hits. Should a different threshold be used?

3. Financial Indicators

a. Financial indicators can be used to gain insight into licensee performance in conjunction with other assessment measures. They would not be relied upon solely to draw conclusions on licensee performance in an integrated assessment process. How should financial indicators be used in the assessment of licensee performance?

b. Are there other financial methodology processes that will provide a more useful set of financial variables?

c. The financial variables are based on publicly available data. Are there other financial data that could be made available that would be more useful?

*E. Additional Comments*

In addition to the previously mentioned issues, commenters are invited to provide any other views on the NRC assessment process that could assist the NRC in improving its effectiveness.

Dated at Rockville, MD, this 3rd day of August 1998.

For the Nuclear Regulatory Commission.

**Michael R. Johnson,**

*Acting Chief, Inspection Program Branch, Division of Inspection & Support Programs, Office of Nuclear Reactor Regulation.*

BILLING CODE 7590–01–P

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

OFFICE OF THE SECRETARY

June 30, 1998

## COMMISSION VOTING RECORD

DECISION ITEM: SECY-98-045

TITLE: STATUS OF THE INTEGRATED REVIEW OF THE NRC ASSESSMENT PROCESS FOR OPERATING COMMERCIAL NUCLEAR REACTORS

The Commission (with Chairman Jackson and Commissioner McGaffigan agreeing and Commissioner Diaz agreeing in part) approved the subject paper as recorded in the Staff Requirements Memorandum (SRM) of June 30, 1998. Commissioner Diaz disapproved in part. Commissioner Dicus disapproved the issuance of the paper for formal public comment at this time.

This Record contains a summary of voting on this matter together with the individual vote sheets, views and comments of the Commissioners, and the SRM of June 30, 1998.

John C. Hoyle
Secretary of the Commission

Attachments:
1. Voting Summary
2. Commissioner Vote Sheets
3. Final SRM

cc: Chairman Jackson
Commissioner Dicus
Commissioner Diaz
Commissioner McGaffigan
OGC
EDO
PDR
DCS

Attachment

# VOTING SUMMARY - SECY-98-045

## RECORDED VOTES

| | APRVD | DISAPRVD | ABSTAIN | NOT PARTICIP | COMMENTS | DATE |
|---|---|---|---|---|---|---|
| CHRM. JACKSON | X | | | | X | 4/9/98 |
| COMR. DICUS | | X | | | X | 5/5/98 |
| COMR. DIAZ | X | X | | | X | 5/6/98 |
| COMR. McGAFFIGAN | X | | | | X | 5/19/98 |

## COMMENT RESOLUTION

In their vote sheets, Chairman Jackson and Commissioner McGaffigan approved the staff's recommendation to issue the paper for formal public comment. Commissioner Diaz approved in part and disapproved in part, recommending some changes to the paper before issuance for comment. Commissioner Dicus disapproved issuance of the paper for comment. Subsequently, the Commission approved soliciting public comments on the new assessment process as presented in SECY-98-045. The Commission also directed the transition to an annual senior management review process with additional guidance to staff as reflected in the SRM issued on June 30, 1998.

# NOTATION VOTE

## RESPONSE SHEET

TO: John C. Hoyle, Secretary

FROM: CHAIRMAN JACKSON

SUBJECT: **SECY-98-045 - STATUS OF THE INTEGRATED REVIEW OF THE NRC ASSESSMENT PROCESS FOR OPERATING COMMERCIAL NUCLEAR REACTORS (SRM 9700238)**

Approved w/comments X Disapproved _____ Abstain _____

Not Participating _____ Request Discussion _____

COMMENTS:

SEE ATTACHED COMMENTS

Shirley Ann Jackson
SIGNATURE

Release Vote / X /

April 9, 1998
DATE

Withhold Vote /___/

Entered on "AS" Yes X No ____

**Chairman's Vote on SECY-98-045, "Status of the Integrated Review of the NRC Assessment Process for Operating Commercial Nuclear Reactors"**

I approve the staff begin soliciting, by May 1998, public comments on the proposed new conceptual assessment process provided the paper is modified to reflect the following concerns:

> I recognize that some regulatory concerns may not be as important to safety as others. Certain patterns of regulatory concern may be symptomatic of emerging safety problems. The staff should, therefore, ensure that these issues are treated appropriately in the assessment process.
>
> I recognize that the enforcement program is valuable for the NRC; However, the staff should address the perception that it is being used as a driver of the assessment process.

Independent of soliciting public comment at this early stage of the process, the staff should develop a clear statement of goals, objectives, strategies, and clear linkages between them. This linkage requires defining the role of each of the template categories in supporting the fundamental objectives of the assessment process. In addition, trial applications of the proposed process would be helpful for benchmarking and to ensure that the assessment process is viable and meets all expectations. Results of these trial applications should be provided to the Commission.

As part of its final proposal on the Integrated Assessment Process due in the fall of 1998, the staff should also inform the Commission on how it has addressed the recommendations in the March 13, 1998, ACRS letter on proposed improvements to the Senior Management Meeting Process. Further , the staff should clarify any differences in objectives of the template and assessment tools being developed by AEOD along with how potential differing results from the two processes are to be reconciled.

# NOTATION VOTE

## RESPONSE SHEET

**TO:** John C. Hoyle
Secretary of the Commission

**FROM:** COMMISSIONER DICUS

**SUBJECT:** SECY-98-045

Approved __ Disapproved _X_ Abstain _____

Not Participating _____ Request Discussion _____

COMMENTS:

See attached.

Greta Joy Dicus
SIGNATURE

May 5 1998
DATE

Release Vote /_X_/

Withhold Vote /___/
Entered on "AS" Yes ____ No ____

**Commissioner Dicus' vote on SECY-98-045, "Status of the Integrated Review of the NRC Assessment Process for Operating Nuclear Reactors"**

I disapprove issuance of this paper for formal public comment in its present form. I believe the paper needs substantial revision in order to address some significant concerns and to help ensure that meaningful comments can be reviewed once the paper is released for formal public comment.

While I disapprove issuance of the paper at this time, the staff is to be commended for its willingness to address an issue of this magnitude and importance. While I have substantial concerns about some of the concepts advanced in the paper and concerns about concepts that have not been addressed, I recognize that the paper represents an important first step in a thorough reappraisal of our reactor oversight program.

The staff should revise the paper prior to releasing it for public comment and so doing consider the following:

1) The staff should develop the hierarchical structure of the new process to clearly define how the process will arrive at conclusions of plant performance. The staff should address the concerns raised by the ACRS.

2) The staff should also address how the new system will equitably treat those plants that receive a large number of inspection hours compared to those plants that receive a normal number of inspections hours.

3) I believe the staff should consider positive as well as negative inspection findings in the new assessment process. In the benchmarking activity, the staff should assess how the new process would handle both positive and negative Plant Issues Matrix (PIM) entries. The staff should provide their conclusions concerning a) differences in inspection effort and b) including positive and negative inspection findings in a paper to the Commission.

4) The staff needs to address inter and intra regional consistency in the new process. While the new process will identify inspections that do not find the same number of issues as other similar inspections, consistency between the regions is not assured with this process. The staff should prepare for Commission consideration their plans for monitoring equity among the regions.

5) With performance indicators showing a trend of better industry performance, it is not clear to me why Level IV violations have doubled in the past two years. The staff should report to the Commission on why this disparity exists. The staff should continue their efforts to benchmark the new process against existing PIMs. The staff should test the new assessment system to determine the sensitivity of the new system to enforcement, perhaps by a comparison of current PIM data to PIM data from two years ago for the same group of plants. The staff should report to the Commission on whether

the new process retains the desired safety focus of the assessment process or becomes compliance oriented based on the overemphasis on enforcement.

6) The assessment process cannot be separated from the inspection process. The staff should continue their development of the IRAP and develop the necessary changes to the inspection program so that a combined package of changes to the assessment process and inspection program can be presented to the Commission for consideration. Because of the recent changes to the Senior Management Meeting process, I am comfortable using that system until the IRAP and corresponding changes to the inspection program can be approved by the Commission.

7) The assessment process must assure that it provides a method to help focus our resources where they are most needed and can give early warning of declining performance through the use of leading ( technical) indicators of safety performance.

8) The staff should provide revised milestone dates for IRAP including a public comment period following Commission review.

# NOTATION VOTE

## RESPONSE SHEET

TO: John C. Hoyle, Secretary

FROM: COMMISSIONER DIAZ

SUBJECT: **SECY-98-045 - STATUS OF THE INTEGRATED REVIEW OF THE NRC ASSESSMENT PROCESS FOR OPERATING COMMERCIAL NUCLEAR REACTORS (SRM 9700238)**

Approved XX with comments Disapproved XX Abstain _____

Not Participating _____ Request Discussion _____

COMMENTS:

See Attached Comments

SIGNATURE

Release Vote /___/

May 6, 1998
DATE

Withhold Vote /___/

Entered on "AS" Yes ____ No ____

**COMMISSIONER DIAZ'S COMMENTS ON SECY-98-045 -- STATUS OF THE INTEGRATED REVIEW OF THE NRC ASSESSMENT PROCESS FOR OPERATING COMMERCIAL NUCLEAR REACTORS**

I commend the staff for its significant effort in responding with a sense of purpose to the Commission's direction for conducting the integrated review of assessment processes (IRAP). The IRAP team made an effort to create an improved and less resource-intensive process, an objective with which I fully agree. In fact, the streamlined information flow (including the sequence of assessment activities) developed by the IRAP team achieves this objective to a large extent. As a positive incremental step, I believe that it is feasible to implement the proposed information flow now, using the assessment tools that the staff currently has at its disposal.

The major task facing the staff is to develop the mechanics of assessing plant performance and associated actions to achieve the fundamental objectives of the program.

I approve the issuance of SECY-98-045 for soliciting public comments provided the paper is revised to address the following issues.

1. The obvious showstopper in the proposed IRAP is that the processes for assessing plant performance and for taking associated actions appear to depend on an enforcement foundation. This would introduce an unnecessary bias into the process. It is my opinion that **informed enforcement is one of several regulatory tools, not a driving force of assessment activities.** Assessment of enforcement actions is usually straightforward, since *enforcement is an integral activity* that already encompasses multiple features of the IRAP information flow as described in the paper, and it is normally a lagging indicator of performance.

2. The definitions for the three performance rating categories (green, yellow, and red) are expressed largely in terms of compliance; these definitions should be reformulated in terms of safety. In addition, the use of color coding as a means of depicting plant performance would, given the current state of evolution of our assessment capability, oversimplify the meaning of NRC performance assessments, and could therefore lead to easy misunderstanding or distortion. The definitions themselves should serve as the labels of the various plant performance categories. For example, the three categories could be revised as shown below:

   - performance that exceeds operational safety requirements
   - performance that meets operational safety requirements (this designation would include plants that may have performance issues requiring additional agency focus beyond the core inspection program).
   - performance below safety margins and/or operational safety requirements (this designation should be reserved for plants that are shutdown under a Confirmatory Action Letter or Order).

   Using definitions such as these would better allow for accurate characterization of performance and for clearly communicating the meaning of NRC assessments.

3. Given the redundancy of the agency's enforcement processes to the proposed assessment methodology, duplicatively carrying forward enforcement will undercut the efficiencies that would be realized by the streamlined information flow. Therefore, it would be appropriate for the IRAP to have enforcement-type actions removed from the process, leaving enforcement action, if any, to be brought into the process only as a final measure and taken by the highest levels of the agency. This is not to say that the staff should not consider enforcement history at the various closure points in the process as it develops a full integral assessment of plant performance.

4. In developing a point scoring system for the PIM, the staff should ensure that the IRAP will be safety focused and risk-informed with minimal compliance orientation by emphasizing the "weight" of safety deficiencies. Such a rating scheme should result in the avoidance of "bean counting," and it would not place "paper compliance" over actual operational safety, thereby emphasizing correction of genuine safety problems. Even though the proposed template is a useful tool, we still need to have the ability to differentiate between regulatory concerns and safety issues. The population and weight of safety issues should overwhelm any flare-ups of regulatory concerns without a safety nexus. Points in a PIM, or "hits" derived from a trend chart, should for now only be triggers for further data gathering and analysis, not ends in themselves.

   Obviously, the transition to a more quantitative regime would need to be done carefully in order to minimize pitfalls. Hopefully, the learning process during this transition will converge to establish better quantification and reduce subjectivity. However, I believe that today's state-of-the-art is not capable of sound decision-making that is based only on the terms stated in the paper. This contrast between weighing safety issues and making decisions on a strictly quantitative basis is analogous to being risk-informed versus being risk-based.

5. The evolution toward a "negative-only" reporting regime, in which the only good news is an absence of bad news, would not be a step forward. While it may be worthwhile to no longer differentiate among the better plants (those that would have an overall rating of Green in the proposed system), it would be counterproductive to change the NRC assessments to something closely resembling a pass/fail system. In the interest of developing a balanced picture of licensee performance, it would be beneficial for the NRC to be able to consider in its assessments those activities that reflect implementation of a robust safety focus, especially when the margin of safety exceeds regulatory requirements.

During the public meetings on the IRAP and resolution of stakeholder comments, the staff should keep in mind that for clarity, transparency, and accountability of NRC regulatory activities, the IRAP should serve to:

- assess the **safety** performance of licensees;
- assess the clarity, ease of **implementation**, and **effectiveness** of NRC requirements;
- assist NRC management in allocating its increasingly scarce resources;
- communicate all of these **safety** performance assessments to all stakeholders;
- foster early licensee implementation of corrective actions;
- foster improved two-way communications between the NRC and its licensees;
- help agency senior managers to assess the effectiveness of the NRC inspection program and the other programs that feed the assessments (such as AEOD's performance indicators and trend methodology, enforcement program, allegations program, and so forth); and,

- establish robust efforts dedicated to making the process less punitive and more self-corrective.

Finally, the IRAP, which embodies new assessment processes and the Senior Management Meeting, should reflect that the Commission is accountable for all of it. This accountability should be assured by making the issuance of orders as a result of the annual Headquarters performance review meeting subject to negative consent by the Commission.

# NOTATION VOTE

## RESPONSE SHEET

TO: John C. Hoyle, Secretary

FROM: COMMISSIONER MCGAFFIGAN

SUBJECT: **SECY-98-045 - STATUS OF THE INTEGRATED REVIEW OF THE NRC ASSESSMENT PROCESS FOR OPERATING COMMERCIAL NUCLEAR REACTORS (SRM 9700238)**

Approved _X_ Disapproved _____ Abstain _____

Not Participating _____ Request Discussion _____

COMMENTS:

See attached comments.

Edward McGaffigan Jr.
SIGNATURE

May 19, 1998
DATE

Release Vote /X/

Withhold Vote /___/

Entered on "AS" Yes _X_ No ____

Commissioner McGaffigan's Comments on SECY-98-045

As I indicated at the April 2, 1997 Commission briefing, I have major concerns with the staff proposal for integrating the various NRC assessment processes for commercial nuclear reactors. I appreciate the staff's effort to think "outside the box" and the initiative to come to the Commission and stakeholders early to take a sounding on whether the staff proposal is acceptable before too many resources are expended. But in the end I believe the staff may have reached too far.

I am doubtful that the process outlined by the staff is implementable or that it will save resources. Scoring every plant issues matrix (PIM) item in an assessment template with at least sixteen elements in the matrix in a consistent fashion with quasi-adjudication on each score is a monumental task. The staff has tried to narrow the task by not including good or neutral assessments in the PIM and by not attempting to distinguish excellent or superior performance from performance that meets regulatory requirements with less robustness. I disagree with both of these "boundary conditions" / "fundamental principles." I also disagree with the "fundamental principle" that "any new process must be closely aligned with the enforcement policy." By focusing only on negative items in the PIM, the assessment process and the enforcement process almost become one and the same. It is only at the annual regional and headquarters staff meetings behind closed doors where additional information such as performance indicators and AEOD trending methodology are compared and reconciled with the template assessment.

I should also note that I disagree with the need for an additional "management effectiveness" category in the performance template as discussed in my vote on SECY-98-059.

I understand that the staff considered a less radical approach to streamlining the assessment process during its deliberations. I would hope that that option might be revived during the comment period. I personally would support aligning the PPR, SMM and SALP processes in a straightforward manner. I could imagine semi-annual PPRs, an annual SMM (incorporating the ongoing improvements from the Arthur Anderson follow-up work), and an annual update on SALP scores done at the same time as the SMM preparations, all utilizing the same inspection reports, performance indicators, trending methodologies, etc. The PIM would not be scored and it would include positive as well as negative findings. The current four SALP categories and the three grades (superior, good, acceptable) would be maintained. The Commission would endorse the proposed actions resulting from the SMM by a negative consent process, as

previously proposed by Commissioner Diaz. Aligning and integrating the three existing processes to save resources in this or a similar fashion appears to me to have a greater chance to succeed in implementation than the staff proposal.

This all said, I am not opposed to seeking formal public comments on the proposal, as requested by the staff, if the staff still believes that that would be worthwhile in light of the comments received thus far (from ACRS, UCS, the Commissioners and other stakeholders). The staff can not, however, possibly keep to the schedule proposed in the paper. The staff will likely need a second round of comments if the proposal is significantly altered as a result of the comment process, and implementation of other than modest changes in the existing processes (such as an annual SMM) will likely prove impossible in fiscal year 1999.

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

OFFICE OF THE SECRETARY

June 30, 1998

MEMORANDUM TO: L. Joseph Callan
Executive Director for Operations

FROM: John C. Hoyle, Secretary

SUBJECT: STAFF REQUIREMENTS - SECY-98-045 - STATUS OF THE INTEGRATED REVIEW OF THE NRC ASSESSMENT PROCESS FOR OPERATING COMMERCIAL NUCLEAR REACTORS

The Commission has approved the staff soliciting public comments on a proposed new assessment process as presented in SECY-98-045, as guided by the following general principles (the Commission desires that this SRM, the Commission voting record, and the comments of the Commissioners be included in the Federal Register Notice soliciting public comments):

1. While the enforcement program is a valuable regulatory tool, the Commission does not desire that enforcement be used as a "driving force" of the assessment activities.

2. The Commission supports the position that the staff continue to identify positive, as well as negative findings in inspection reports (this should not be construed as requiring inspectors to strive for a "balance" of positive and negative findings in their reports).

3. The Commission does not support the transition to an assessment process based primarily on a quantitative "scoring" of plant issues matrix entries at this time. The Commission is interested in obtaining a quantitative "input" to the assessment process, and desires additional feedback on potential grading mechanisms during this public comment period.

4. The Commission supports the development, if possible, of leading or, at least, concurrent indicators that can identify emerging safety problems. The Commission recognizes that neither the staff nor industry has thus far been successful in developing leading indicators, and resources devoted to this effort need to be commensurate with the probability of success.

5. The definitions for the performance rating categories should not be "color coded".

---

SECY NOTE: SECY -98-045 was released to the public at the Commission Meeting on April 4, 1998. This SRM and the Commission voting record will be made publicly available 5 working days from the date of this SRM.

In addition to the processes discussed in the paper, the staff should remain open during the public comment period to less dramatic changes which might integrate the existing processes in a manner which saves resources and may be more readily implemented.

The staff should continue to involve the ACRS in the efforts to integrate NRC's assessment process.

The staff should inform the Commission of the results of their review of public comments and their recommendation for changes to the assessment process. The staff should address how the new process will ensure inter and intra regional consistency and the equitable treatment of plants receiving varying levels of inspection effort. The staff should include any conceptual changes to the inspection program needed to conform with the new assessment process.
(EDO) (SECY Suspense: 1/1/99)

The staff should report to the Commission the reasons that Level IV violations have doubled in the past two years while performance indicators show an improving trend of industry performance.
(EDO) (SECY Suspense: 7/31/98

The results and proposed actions associated with the senior management review should be forwarded to the Commission for an expedited (three day) review under a negative consent process under which, absent a Commission majority to the contrary, the result would be for the staff's actions to go forward as proposed.
(EDO) (SECY Suspense: 7/1/98)

In fiscal year 1999, the staff should transition to an annual senior management review.
(EDO) (SECY Suspense: 1/1/99)

cc: Chairman Jackson
Commissioner Dicus
Commissioner Diaz
Commissioner McGaffigan
OGC
CIO
CFO
OCA
OIG
Office Directors, Regions, ACRS, ACNW, ASLBP (via E-Mail)
PDR
DCS

[FR Doc. 98–21168 Filed 8–6–98; 8:45 am]
BILLING CODE 7590–01–C

## NUCLEAR REGULATORY COMMISSION

### Proposed Generic Communication; Boiling Water Reactor Licensees Use of the BWRVIP–05 Report To Request Relief from Augmented Examination Requirements on Reactor Pressure Vessel Circumferential Shell Welds (MA1689)

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice of opportunity for public comment.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) is proposing to issue a generic letter to all holders of operating licenses for boiling-water reactors (BWRs), except those who have permanently ceased operations, and have certified that fuel has been permanently removed from the reactor vessel, to inform addressees that the NRC staff has completed its review of the ''BWR Vessel and Internals Project (BWRVIP), BWR Reactor Pressure Vessel Shell Weld Inspection Recommendations (BWRVIP–05),'' and that licensees of BWRs may request permanent (i.e., for the remaining term of operation under the existing, initial license) relief from the inservice inspection requirements of 10 CFR 50.55a(g) for the volumetric examination of circumferential reactor pressure vessel (RPV) welds. No specific action or written response is required.

The NRC is seeking comment from interested parties on both the technical and regulatory aspects of the proposed generic letter presented under the Supplementary Information heading.

The proposed generic letter has been endorsed by the Committee to Review Generic Requirements (CRGR). Relevant information that was sent to the CRGR will be placed in the NRC Public Document Room. The NRC will consider comments received from interested parties in the final evaluation of the proposed generic letter. The NRC's final evaluation will include a review of the technical position and, as appropriate, an analysis of the value/impact on licensees. Should this generic letter be issued by the NRC, it will become available for public inspection in the NRC Public Document Room.

**DATES:** Comment period expires September 8, 1998. Comments submitted after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except for comments received on or before this date.

**ADDRESSEES:** Submit written comments to Chief, Rules and Directives Branch, Division of Administrative Services, U.S. Nuclear Regulatory Commission, Mail Stop T6–D69, Washington, DC 20555–0001. Written comments may also be delivered to 11545 Rockville Pike, Rockville, Maryland, between 7:45 am to 4:15 pm, Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, 2120 L Street, NW (Lower Level), Washington, DC.

**FOR FURTHER INFORMATION, CONTACT:** Gene Carpenter, (301) 415–2169.

**SUPPLEMENTARY INFORMATION:**

#### Addresses

All holders of operating licenses for boiling-water reactors (BWRs), except those who have permanently ceased operations and have certified that fuel has been permanently removed from the reactor vessel.

#### Purpose

The U.S. Nuclear Regulatory Commission (NRC) is issuing this generic letter to inform addressees that the NRC staff has completed its review of the ''BWR Vessel and Internals Project (BWRVIP), BWR Reactor Pressure Vessel Shell Weld Inspection Recommendations (BWRVIP–05),'' and that licensees of BWRs may request permanent (i.e., for the remaining term of operation under the existing, initial, license) relief from the inservice inspection requirements of 10 CFR 50.55a(g) for the volumetric examination of circumferential reactor pressure vessel (RPV) welds. No specific action or written response is required.

#### Background

By letter dated September 28, 1995, as supplemented by letters dated June 24 and October 29, 1996, May 16, June 4, June 13, and December 18, 1997, and January 13, 1998, the BWRVIP submitted the Electric Power Research Institute (EPRI) proprietary report TR–105697, ''BWR Vessel and Internals Project [BWRVIP], BWR Reactor Pressure Vessel Shell Weld Inspection Recommendations (BWRVIP–05).'' The BWRVIP–05 report evaluates the current inspection requirements for the reactor pressure vessel shell welds in BWRs, formulates recommendations for alternative inspection requirements, and provides a technical basis for these recommended requirements. It initially proposed to reduce the scope of inspection of the BWR reactor pressure vessel (RPV) welds from essentially 100 percent of all RPV shell welds to 50 percent of the axial welds and zero percent of the circumferential welds; however, as modified, it proposes to perform inservice inspections (ISI) on essentially 100 percent of the RPV axial shell welds, and essentially zero percent of the circumferential RPV shell welds, except for the intersections of the axial and circumferential welds. Approximately 2–3 percent of the circumferential welds will be inspected under this proposal.

On August 7, 1997, the NRC issued Information Notice (IN) 97–63, ''Status of NRC Staff's Review of BWRVIP–05,'' regarding licensee requests for relief. IN 97–63 stated that the staff would ''* * * consider technically-justified requests for reliefs from the augmented examination in accordance with 10 CFR 50.55a(a)(3)(i), 10 CFR 50.55a(a)(3)(ii), and 50.55a(g)(6)(ii)A(5) from BWR licensees who are scheduled to perform inspections of the BWR RPV circumferential shell welds during the fall 1997 or spring 1998 outage seasons''. The staff issued schedular reliefs for inspections of the BWR RPV circumferential shell welds due during the fall 1997 outage season for four units who submitted technically-justified requests, and has issued schedular reliefs for two units during the spring 1998 outage season.

On May 7, 1998, the staff issued IN 97–63, Supplement 1, which informed BWR licensees that the staff was extending the period in which it would ''* * * consider technically justified requests for relief from the augmented examination in accordance with 10 CFR 50.55a(a)(3)(i), 50.55a(a)(3)(ii), and 50.55a(g)(6)(ii)(A)(5) from BWR licensees who are scheduled to perform inspections of the BWR RPV circumferential shell welds during the fall 1998 or spring 1999 outage seasons. Acceptably justified relief would be considered for inspection delays of up to two operating cycles for BWR RPV circumferential shell welds only. Licensees will still need to perform their required inspections of ''essentially 100 percent'' of all axial welds.''

#### Discussion

The staff has completed its final review of the information submitted by the BWRVIP and the staff's safety evaluation (SE) was transmitted to Carl Terry, Chairman of the BWRVIP, in a letter dated July 28, 1998.

The staff previously concluded that beyond design-basis events occurring during plant shutdown could lead to cold over-pressure events that could challenge vessel integrity. The industry's response concluded that condensate and control rod drive pumps could cause conditions that could lead to cold over-pressure events that could challenge vessel integrity. The BWRVIP's estimate of the frequency of

over-pressurization events that could challenge the RPV is $9.5 \times 10^{-4}$/yr for BWR–4 facilities and $9 \times 10^{-4}$/yr for other than BWR–4 facilities. After accounting for actual injections which were not included in the BWRVIP analysis, the staff conservatively estimates that the total frequency could be as high as $1 \times 10^{-3}$/yr (a point estimate).

The initial industry review determined that the failure frequency of circumferential welds was $2.2 \times 10^{-41}$/yr. This frequency was determined using importance sampling, generic weld variables and design basis events. Subsequent analyses using ''Monte Carlo'' calculation methods, plant-specific weld variables and pressures and temperatures associated with cold over-pressure events, determined that the limiting plant-specific conditional probability of vessel failure, P(F|E) for circumferential welds at 32 effective full power years (EFPY) were $1 \times 10^{-6}$ from the BWRVIP's re-analysis and $8.2 \times 10^{-6}$ from the NRC staff's analysis. Combining the frequency of cold over-pressure events with the P(F|E), the BWRVIP failure frequency for the limiting circumferential welds was $9.0 \times 10^{-10}$/yr [($9 \times 10^{-4}$/yr event frequency for a BWR–3) $\times$ (1.0 x $10^{-6}$ conditional probability of failure)]. The limiting plant-specific failure frequency for circumferential welds at 32 EFPY was determined by the staff to be $8.2 \times 10^{-8}$/yr [($1 \times 10^{-3}$/yr event frequency) $\times$ ($8.2 \times 10^{-5}$ P(F|E))]. As depicted in NUREG 1560, Vol. I, core damage frequencies (CDF) for BWR plants were reported to be approximately $10^{-7}$/yr to $10^{-4}$/yr. In addition, Regulatory Guide (RG) 1.154 indicates that PWR plants are acceptable for operation if the plant-specific analyses predict the mean frequency of through-wall crack penetration for pressurized thermal shock events is less than $5 \times 10^{-6}$/yr. The failure frequencies of circumferential welds in BWR vessels are significantly below the criteria specified in RG 1.154.

RG 1.174 provides guidelines as to how defense-in-depth and safety margins are maintained, and states that a risk assessment should be used to address the principle that proposed increases in risk, and their cumulative effect, are small and do not cause the NRC Safety Goals to be exceeded. The estimated failure frequency of the BWR RPV circumferential welds is well below the acceptable core damage frequency (CDF) and large early release frequency (LERF) criteria discussed in RG 1.174. Although the frequency of RPV weld failure can not be directly compared to the frequencies of core damage or large early release, the staff believes that the estimated frequency of RPV circumferential weld failure bounds the corresponding CDF and LERF that may result from a vessel weld failure. On the above bases, the staff has concluded that the BWRVIP–05 proposal, as modified, to eliminate BWR vessel circumferential weld examinations, is acceptable.

**Permitted Action**

BWR licensees may request permanent (i.e., for the remaining term of operation under the existing, initial, license) relief from the inservice inspection requirements of 10 CFR 50.55a(g) for the volumetric examination of circumferential reactor pressure vessel welds (ASME Code Section XI, Table IWB–2500–1, Examination Category B–A, Item 1.11, Circumferential Shell Welds) by demonstrating that: (1) At the expiration of their license, the circumferential welds will continue to satisfy the limiting conditional failure probability for circumferential welds in the staff's July 28, 1998, safety evaluation, and (2) licensees have implemented operator training and established procedures that limit the frequency of cold over-pressure events to the amount specified in the staff's July 28, 1998, safety evaluation. Licensees will still need to perform their required inspections of ''essentially 100 percent'' of all axial welds.

This generic letter requires no specific action or written response. Any action on the part of addressees to request relief from the inservice inspection requirements of 10 CFR 50.55a(g) for the volumetric examination of the circumferential reactor pressure vessel welds, in accordance with the guidance of this generic letter, is strictly voluntary.

Dated at Rockville, Maryland, this 31st day of July 1998.

For the Nuclear Regulatory Commission,

**Jack W. Roe,**

*Acting Director, Division of Reactor Program Management, Office of Nuclear Reactor Regulation.*

[FR Doc. 98–21166 Filed 8–6–98; 8:45 am]

BILLING CODE 7590–01–P

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. IC–23370, 812–10800]**

## Bankers Trust Company, et al.; Notice of Application

July 31, 1998.

**AGENCY:** Securities and Exchange Commission (''SEC'').

**ACTION:** Notice of application for an order under sections 6(c) and 17(b) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 17(a) and 17(e) of the Act, under section 12(d)(1)(J) of the Act for an exemption from section 12(d)(1) of the Act, and under section 17(d) of the Act and rule 17d–1 under the Act to permit certain joint transactions.

**SUMMARY OF APPLICATION:** Applicants request an order to permit certain registered management investment companies to use cash collateral from securities lending transactions (''Cash Collateral'') to purchase shares of an affiliated registered management investment company (the ''Trust''), and to pay fees based on a share of the revenue generated from securities lending transactions to Bankers Trust Company (''Bankers Trust''). The order also would permit Bankers Trust and certain of its affiliates to engage in principal securities transactions with, and receive brokerage commissions from, certain other registered investment companies that are affiliated with Bankers Trust solely as a result of investing Cash Collateral in the Trust.

*Applicants:* Bankers Trust; Cash Management Portfolio, Treasury Money Portfolio, Tax Free Money Portfolio, NY Tax Free Money Portfolio, International Equity Portfolio, Equity 500 Index Portfolio, Short/Intermediate U.S. Government Securities Portfolio, Asset Management Portfolio, Capital Appreciation Portfolio, Intermediate Tax Free Portfolio, BT Investment Portfolios and future series of the foregoing; the Trust, BT Investment Funds, BT Insurance Funds Trust, BT Pyramid Mutual Funds, BT Advisor Funds and future series of the foregoing; Fidelity Commonwealth Trust in respect of its Spartan Market Index Fund, Fidelity Concord Street Trust in respect of its Spartan extended Market Index Fund, Spartan International Index Fund, Spartan Total Market Index Fund, and Spartan US Equity Index Fund, and Fidelity Variable Insurance Products Fund II in respect of its Index 500 Portfolio, and any other registered open-end or closed—end management investment company advised or sub-advised, or that invests substantially all of its assets in a registered investment company advised or subadvised, by bankers Trust or an entity controlling, controlled by or under common control with bankers Trust (each a ''BT Entity'') (collectively, ''Affiliated Lending Funds''); and Institutional Daily Assets Fund (the ''Money Fund''), and any series of the Trust or other registered management investment companies

advised by a BT Entity and established in the future in connection with the investment of Cash Collateral from securities lending transactions (together with the Money fund, the ''Investment Funds'').

**FILING DATES:** The application was filed on September 25, 1997. Applicants have agreed to file an amendment during the notice period, the substance of which is described 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 August 25, 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, NW., Washington, DC 20549. Bankers Trust Entities, c/o Mr. Gerald T. Lins, Esq., Bankers Trust Company, One Bankers Trust Plaza, 31st Floor, New York, NY 10006. Fidelity Funds, c/o Fidelity Investments, 82 Devonshire Street, Boston, Massachusetts 02109.

**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 from the SEC's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549 (tel. 202–942–8090).

## Applicants' Representations

1. Bankers Trust, a New York banking corporation, is a wholly-owned subsidiary of Bankers Trust Corporation. Bankers Trust serves as the investment adviser to the Affiliated Lending Funds, which are either open-end or closed-end management investment companies registered under the Act.[1] Bankers Trust also is one of the world's leading providers of institutional custody services. In conjunction with its global custodial services, Bankers Trust operates one of the largest and most extensive securities lending programs (the ''Securities Lending Program'').

2. The Trust is an unincorporated business association organized under the laws of Massachusetts and is registered as an open-end management investment company under the Act. The Trust has several series, including the Money Fund. Shares of the Money Fund are offered primarily to Affiliated Lending Funds and other institutional investors participating in the Securities Lending Program, including other registered management investment companies (''Other Lending Funds''). The Money Fund values its securities using the amortized cost method and complies with rule 2a–7 under the Act. Shares of the Trust (''Shares'') are not subject to any sales load, redemption fee, or asset-based distribution fee. Bankers Trust serves as the investment adviser, custodian, transfer agent and administrator of the Money Fund and receives fees for these services. Other Investment Funds will be structured and operated in the same manner, but might not be money market funds.

3. Affiliated Lending Funds and Other Lending Funds (collectively, ''Lending Funds'') may loan their portfolio securities to various institutional borrowers. Pursuant to a securities lending agreement (the ''Securities Lending Agreement''), Bankers Trust acts as the securities lending agent for each Lending Fund. Each Lending Fund will represent to Bankers Trust that its policies generally permit the Lending Fund to engage in securities lending transactions. In addition, each Affiliated Lending Fund's board of trustees (the ''Board''), including a majority of the trustees who are not ''interested persons'' of the Fund (the ''Independent Trustees''), will initially approve Bankers Trust as the lending agent.

4. Bankers Trust states that its personnel providing day-to-day lending agency services to the Affiliated Lending Funds do not provide investment advisory services to the Funds, or participate in any way in the selection of portfolio securities or other aspects of the management of the funds.

5. Under the Securities Lending Program, Bankers Trust will enter into a borrowing agreement (the ''Borrowing Agreement'') with certain entities designated by Bankers Trust and approved by the Lending Fund as eligible to borrow portfolio securities (the ''Borrowers''). Collateral to be delivered by Borrowers under the Securities Lending Agreement and the Borrowing Agreement will be U.S. government securities, letters of credit or Cash Collateral.

6. The Securities Lending Agreement will authorize and instruct Bankers Trust as agent for the Lending Fund to invest the Cash Collateral in accordance with specific guidelines provided by the Lending Fund. These guidelines will identify the particular Investment Funds and other investment vehicles, instruments and accounts, if any, in which Cash Collateral may be invested, and the amounts of Cash Collateral that may be invested in each Investment Fund and other authorized investments.

7. An Affiliated Lending Fund and the lending agent derive income from the Securities Lending Program is one of two ways. If an Affiliated Lending Fund receives Cash Collateral it may invest the Cash Collateral and receive an investment return. Out of the return, the Affiliated Lending Fund pays the Borrower an agreed upon interest rate and retains the rest of the return. This investment return is split with the lending agent (''Shared Return''). When the collateral is a U.S. government security or a letter of credit, the Borrower pays the Affiliated Lending Fund a lending fee, which the Affiliated Lending Fund would share with the lending agent (''Shared Lending Fee'').

8. Applicants request an order to permit the Lending Funds to use Cash Collateral received from Borrowers to purchase Shares of the Money Fund and other Investment Funds. Applicants also request an order to permit the Affiliated Lending Funds to pay Bankers Trust for its services as lending agent a portion of the Shared Return or Shared Lending Fee. Finally, applicants state that the Other Lending Funds may own more than 5% of an Investment Fund's outstanding voting securities and thus become affiliated persons of the Investment Fund. Bankers Trust, as investment adviser to the Investment Fund would therefore be an affiliated person of an affiliated person of the Lending Fund. Applicants thus request an order permitting Bankers Trust to engage in principal transactions with, and receive brokerage commissions and other compensation from, the Other Lending Funds.

## Applicants' Legal Analysis

*A. Investment of Cash Collateral by the Lending Funds in the Money Fund*

1. Section 12(d)(1)(A) of the Act provides that no registered investment company may acquire securities of another investment company if such securities represent more than 3% of the acquired company's outstanding voting

[1] All existing Affiliated Lending Funds that currently intend to rely on the requested relief have been named as applicants. Any future Affiliated Lending Fund may rely on the order only in accordance with the terms and conditions in the application.

stock, more than 5% of the acquiring company's total assets, or if such securities, together with the securities of other investment companies, represent more than 10% of the acquiring company's total assets. Section 12(d)(1)(B) provides that no registered open-end investment company may knowingly sell its securities to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by investment companies.

2. Section 12(d)(1)(J) of the Act provides that the SEC may exempt persons or transactions from any provision of section 12(d)(1) if and to the extent the exemption is consistent with the public interest and the protection of investors.

3. Applicants seek an order under section 12(d)(1)(J) of the Act exempting them from the provisions of section 12(d)(1) of the Act to permit the Lending Funds to purchase, and the Trust to sell, securities in excess of the limits of sections 12(d)(1)(A) and 12(d)(1)(B) in connection with the Lending Funds' investment of Cash Collateral.

4. Applicants state that each Investment Fund will be operated for the purpose of serving as the vehicle for the investment of Cash Collateral under the Securities Lending Program. Shares of the Investment Funds will not be subject to any sales load, redemption fee, or asset-based distribution or service fee. Applicants further state that, because investment advisory fees paid to Bankers Trust by the Affiliated Lending Funds will not be affected by the value of the collateral received by the Funds in connection with the loaned securities, the fees that would be paid to Bankers Trust by an Investment Fund, including investment advisory fees, should not be viewed as duplicative of the advisory fees paid by the Affiliated Lending Funds to Bankers Trust. Applicants also assert that there is no possibility of undue influence by the Lending Funds over the Investment Funds because each Investment Fund will be structured to accommodate the increased liquidity needs associated with securities lending transactions. Moreover, an Investment Fund will not invest in any investment company in excess of the limits of section 12(d)(1)(A) of the Act. For these reasons, applicants believe that the proposed arrangement does not raise the concerns underlying sections 12(d)(1) (A) and (B).

5. Sections 17(a) (1) and (2) of the Act make it unlawful for any affiliated person of a registered investment company, or any affiliated person of the affiliated person (''Second-Tier Affiliate''), acting as a principal, to sell any security to, or purchase any security from, the registered investment company. Section 17(d) of the Act and rule 17d–1 under the Act prohibit any affiliated person of or principal underwriter for a registered investment company or any Second-Tier Affiliate, acting as principal, from effecting any transaction in connection with any joint enterprise or other joint arrangement or profit sharing plan in which the investment company participates, unless an application regarding the joint transaction has been filed with the SEC and granted by order. Section 2(a)(3) of the Act defines an ''affiliated person'' of another person to include any person directly or indirectly owning, controlling, or holding with power to vote 5% or more of the outstanding voting securities of the other person, as well as any person directly or indirectly controlling, controlled by, or under common control with, the other person, and in the case of an investment company, its investment adviser.

6. The Affiliated Lending Funds and Investment Funds are advised by Bankers Trust and thus are each affiliated persons of Bankers Trust and therefore may be deemed Second-Tier Affiliates. Accordingly, the sale and redemption of Shares of Investment Funds by the Affiliated Lending Funds may be prohibited under section 17(a). Moreover, if an Other Lending Fund acquires 5% or more of an Investment Fund's securities, the Other Lending Fund could be deemed an affiliated person of the Investment Fund, and thus subject to the same prohibitions. Applicants also state that the Affiliated Lending Funds and potentially the Other Lending Funds by purchasing and redeeming Shares, Bankers Trust by acting as investment adviser to the Affiliated Lending Funds and the Investment Funds, and Bankers Trust by providing other services to the Investment Funds at the same time that the Investment Funds sell Shares to the Lending Funds also could be deemed to be participants in a joint enterprise or arrangement within the meaning of section 17(d) of the Act and rule 17d–1 under the Act.

7. Section 17(b) of the Act authorizes the SEC to exempt a transaction from section 17(a) if the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, the proposed transaction is consistent with the policy of each registered investment company concerned, and the general purposes of the Act.

8. Section 6(c) of the Act provides that the SEC may exempt any person, security, or transaction from any provision of the Act if the 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.

9. Under rule 17d–1, in passing on applications for orders under section 17(d), the SEC considers whether the company's participation in the proposed transaction is consistent with the provisions, policies, and purposes of the At, and the extent to which the participation is on a basis different from or less advantageous than that of other participants.

10. Applicants request an order under sections 6(c), 17(b), and 17(d) of the Act and rule 17d–1 under the Act to permit the Lending Funds to purchase Shares of the Investment Funds. Applicants state that the Lending Funds will purchase and redeem Shares of the Investment Funds based on their net asset value determined in accordance with the Act. Applicants also state that the Investment Funds will not impose any sales load, redemption or asset based distribution or service fees. Applicants also assert that the fees that the Investment Funds will pay Bankers Trust will not be duplicative of the fees that the Affiliated Lending Funds pay to Bankers Trust.

11. Applicants further submit that a Lending Fund's Cash Collateral will be invested in a particular Investment Fund only if that Investment Fund invests in the types of instruments that the Lending Fund has authorized for the investment of its Cash Collateral. Applicants state that any Lending Fund that complies with the requirements of rule 2a–7 under the Act will invest only in an Investment Fund that also complies with that rule; and that the investment of Cash Collateral in the Investment Funds will be conducted in accordance with any SEC and staff securities lending guidelines. For these reasons, applicants believe that their requested relief meets the standards of sections 6(c), 17(b), and 17(d) of the Act and rule 17d–1 under the Act.

*B. Payment of Fees by the Lending Funds to Bankers Trust*

1. Bankers Trust, as investment adviser to the Affiliated Lending Funds, is an affiliated person of the Funds. As noted above, section 17(d) and rule 17d–1 generally prohibit joint transactions involving investment companies and their affiliated persons

unless the SEC has approved the transaction. Applicants state that a lending agent agreement between a registered investment company and an affiliated person of the investment company under which compensation is based on a share of the revenue generated by the lending agent's efforts may constitute a joint arrangement within the meaning of section 17(d) and rule 17d–1. Consequently, applicants request an order to permit Bankers Trust, as lending agent, to receive either a portion of the Shared Return or a portion of the Shared Lending Fee from the Affiliated Lending Funds.

2. Applicants propose that each Affiliated Lending Fund will adopt the following procedures to ensure that the proposed fee arrangement and the other terms governing the relationship with Bankers Trust, as lending agent, will meet the standards of rule 17d–1:

(a) In connection with the approval of Bankers Trust as lending agent for an Affiliated Lending Fund and implementation of the proposed fee arrangement, a majority of the Board, including a majority of the Independent Trustees, will determine that: (i) The contract with Bankers Trust is in the best interests of the Affiliated Lending Fund and its shareholders; (ii) the services to be performed by Bankers Trust are appropriate for the Affiliated Lending Fund; (iii) the nature and quality of the services provided by Bankers Trust are at least equal to those provided by others offering the same or similar services for similar compensation; and (iv) the fees for Bankers Trust's services are within the range of, but in any event no higher than, the fees charged by Bankers Trust for services of the same nature and quality provided to unaffiliated parties.

(b) Each Affiliated Lending Fund's contract with Bankers Trust for lending agent services will be reviewed annually by the Board and will be approved for continuation only if a majority of the Board (including a majority of the Independent Trustees) makes the findings referred to in paragraph (a) above.

(c) In connection with the initial implementation of an arrangement whereby Bankers Trust will be compensated as lending agent based on a percentage of the revenue generated by an Affiliated Lending Fund's participation in the Securities Lending Program, the Board shall secure a certificate from Bankers Trust attesting to the factual accuracy of clause (iv) in paragraph (a) above. In addition, the Board will request and evaluate, and Bankers Trust shall furnish, such information and materials as the trustees, with and upon the advice of agents, consultants or counsel, determine to be appropriate in making the findings referred to in paragraph (a) above. Such information shall include, in any event, information concerning the fees charged by Bankers Trust to other institutional investors for performing similar services.

(d) The Board, including a majority of the Independent Trustees, will (i) at each regular quarterly meeting determine, on the basis of reports submitted by Bankers Trust, that the loan transactions during the prior quarter were conducted in compliance with the conditions and procedures set forth in the application, and (ii) review no less frequently than annually the conditions and procedures set forth in the application for continuing appropriateness.

(e) Each Affiliated Lending Fund will (i) maintain and preserve permanently in an easily accessible place a written copy of the procedures and conditions (and modifications thereto) described in the application or otherwise followed in connection with lending securities pursuant to the Securities Lending Program, and (ii) maintain and preserve for a period not less than six years from the end of the fiscal year in which any loan transaction pursuant to the Securities Lending Program occurred, the first two years in an easily accessible place, a written record of each loan transaction setting forth a description of the security loaned, the identity of the person on the other side of the loan transaction, and the terms of the loan transaction. In addition, each Affiliated Lending Fund will maintain all information or materials upon which a determination was made in accordance with the procedures set forth above and the conditions to the application.

3. Applicants also request an order under section 17(d) of the Act and rule 17d–1 under the Act to permit Bankers Trust to receive lending agency fees based on a share of the securities lending revenues from certain Other Lending Funds. Applicants state that an Other Lending Fund may become a Second-Tier Affiliate of Bankers Trust by reason of acquiring 5% or more of the outstanding voting securities of an Investment Fund. Applicants also state that in certain cases Bankers Trust serves as the investment adviser to one series of a registered investment company, whereas other entities unaffiliated with Bankers Trust serve as investment advisers to other series of that investment company (each of the other series being an Other Lending Fund). Because the series may have the same board of directors, the series may be deemed to be under common control, and Bankers Trust, as adviser to one series, may be deemed a Second-Tier Affiliate of the series that are Other Lending Funds. Applicants assert that in both of these cases the decisions made on behalf of the Other Lending Funds are made by persons unaffiliated with Bankers Trust and that any fee arrangements between the Other Lending Funds and Bankers Trust therefore will be the product of arms-length bargaining.

*C. Transactions by Other Lending Funds With Bankers Trust*

1. Applicants state that sections 17(a)(1) and (2) of the Act described above may prohibit principal transactions between Bankers Trust an Other Lending Fund that becomes a Second-Tier Affiliate of Bankers Trust upon acquiring 5% or more of the outstanding voting securities of an Investment Fund. Applicants further state that section 17(e) of the Act may prohibit these Other Lending Funds from paying brokerage commissions or other fees to Bankers Trust.

2. Applicants request an exemption under section 6(c) of the Act from sections 17(a) and 17(e) to permit the Other Lending Funds to engage in principal transactions with, and pay brokerage commissions and other fees to, Bankers Trust or a BT Entity. Applicants assert that Bankers Trust would not have any influence over the decisions made by any Other Lending Fund and that the transactions between the BT Entities and the Other Lending Funds would be the product of arms-length bargaining.

*Applicants' Conditions*

Applicants agree that any order of the SEC granting the requested relief will be subject to the following conditions:

1. The securities lending program of each Lending Fund will comply with all present and future applicable SEC and staff positions regarding securities lending arrangements.

2. The approval of an Affiliated Lending Fund's Board, including a majority of the Independent Trustees, shall be required for the initial and subsequent approvals of Bankers Trust's service as lending agent for the Affiliated Lending Fund pursuant to the Securities Lending Program, for the institution of all procedures relating to the Securities Lending Program as it relates to the Affiliated Lending Fund, and for any periodic review of loan transactions for which Bankers Trust acted as lending agent pursuant to the Securities Lending Program.

3. A majority of the Board of each Affiliated Lending Fund (including a majority of the Independent Trustees of the Affiliated Lending Fund), will initially and at least annually thereafter determine that the investment of Cash Collateral in Shares of an Investment Fund is in the best interests of the shareholders of the Affiliated Lending Fund.

4. Investment in Shares of an Investment Fund by a particular Lending Fund will be consistent with such Lending Fund's investment objectives and policies. A Lending Fund that complies with rule 2a–7 under the Act will not invest its Cash Collateral in an Investment Fund that does not comply with the requirements of rule 2a–7.

5. Investment in Shares of an Investment Fund by a particular Lending Fund will be in accordance with the guidelines regarding the investment of Cash Collateral specified by the Lending Fund in the Securities Lending Agreement. A Lending Fund's Cash Collateral will be invested in a particular Investment Fund only if that Investment Fund has been approved for investment by the Lending Fund and if that Investment Fund invests in the types of instruments that the Lending Fund has authorized for the investment of its Cash Collateral.

6. The Shares of an Investment Fund will not be subject to a sales load, redemption fee, any asset-based sales charge, or service fee (as defined in rule 2830(b)(9) of the Conduct Rules of the National Association of Securities Dealers).

7. An Investment Fund will not acquire securities of any investment company in excess of the limits contained in section 12(d)(1)(A) of the Act.

For the Commission, by the Division of Investment Management, under delegated authority.

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 98–21170 Filed 8–6–98; 8:45 am]

BILLING CODE 8010–01–M

## SECURITIES AND EXCHANGE COMMISSION

**[Rel. No. IC–23372; File No. 812–11090]**

## Barr Rosenberg Variable Insurance Trust, et al.

July 31, 1998.

**AGENCY:** The Securities and Exchange Commission (the ''Commission'').

**ACTION:** Notice of application for an order under Section 6(c) of the Investment Company Act of 1940 (''Act'') granting exemptive relief from Sections 9(a), 13(a), 15(a) and 15(b) of the Act and Rules 6e–2(b)(15) and 6e–3(T)(b)(15) thereunder.

**SUMMARY OF APPLICATION:** Applicants seek an order to permit shares of Barr Rosenberg Variable Insurance Trust (the ''Trust'') and any other investment company that is designed to fund insurance products and for which Rosenberg Institutional Equity Management or its affiliates may serve as investment manager, investment adviser, investment sub-adviser, administration, manager, principal underwriter or sponsor (together with the Trust, ''Trusts'') to be sold to and held by: (i) Variable annuity and variable life insurance separate accounts of both affiliated and unaffiliated life insurance companies; (ii) qualified pension and retirement plants (''Qualified Plans'' or ''Plans'') outside of the separate account context; and (iii) the Trusts' investment adviser (representing seed money investments in the Trusts).

*Applicants:* Barr-Rosenberg Variable Trust (the ''Trust'') and Rosenberg Institutional Equity Management (''RIEM'').

*Filing Date:* The application was originally filed on March 24, 1998, and amended and restated on June 23, 1998.

*Hearing or Notification of Hearing:* An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing on this application by writing to the Secretary of the Commission and serving Applicants with a copy of the request, personally or by mail. Hearing requests must be received by the Commission by 5:30 p.m. on August 25, 1998, and should be accompanied by proof of services on the Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the interest, the reason for the request and the issues contested. Persons may request notification of the date of a hearing by writing to the Secretary of the Commission.

**ADDRESSES:** Secretary, Commission, 450 Fifth Street, NW., Washington, DC 20549. Applicants, c/o Edward H. Lyman, Esq., Rosenberg Institutional Equity Management, 4 Orinda Way, Building E, Orinda, California 94563.

**FOR FURTHER INFORMATION CONTACT:** Ethan D. Corey, Senior Counsel, or Kevin M. Kirchoff, Branch Chief, Office of Insurance Products, Division of Investment Management, at (202) 942–0670.

**SUPPLEMENTARY INFORMATION:** the following is a summary of the application. The complete application is available for a fee from the Public Reference Branch of the Commission, 450 Fifth Street, NW., Washington, DC (tel. (202) 942–8090).

### Applicants' Representations

1. The Trust, a Massachusetts business trust, is registered under the Act as an open-end, management investment company. The Trust currently consists of one investment portfolio (the ''Fund'').

2. RIEM serves as the investment manager to the Trust. RIEM is registered with the Commission as an investment adviser pursuant to the Investment Advisers Act of 1940.

3. The Trust may offer each series of its shares to separate accounts (''Participating Separate Accounts'') registered under the Act as unit investment trusts (''UITs'') of various life insurance companies (''Participating Insurance Company'') and to Plans qualified under Section 401(a) of the Internal Revenue Code of 1986, as amended (the ''Code''). Certain Participating Separate Accounts (''VLI Accounts'') support variable life insurance contracts (''VLI Contracts''). Other Participating Separate Accounts (''VA Accounts'') support variable annuity contracts (''VA Contracts,'' together with VLI Contracts, ''Variable Contracts'').

### Applicants' Legal Analysis

1. Applicants request an order pursuant to Section 6(c) of the Act exempting them from Section 9(a), 13(a), 15(a), and 15(b) of the Act, and Rules 6e–2(b)(15) and 6e–3(T)(b)(15) thereunder, to the extent necessary to permit shares of the Trusts to be offered and sold to, and held by: (a) VA Accounts and VLI Accounts of the same life insurance company or of any affiliated life insurance company (''mixed funding''); (b) VA Accounts and VLI Accounts of unaffiliated life insurance companies (''shared funding''); (c) trustees of Qualified Plans; and (d) the Trusts' investment adviser (representing seed money investments in the Trust or Future Trust).

2. Rule 6e–2(b)(15) under the Act provides partial exemptions from: (a) Section 9(a), which makes it unlawful for certain individuals and companies to act in certain capacities with respect to registered investment companies; and (b) Sections 13(a), 15(a), and 15(b) of the Act to the extent that those sections might be deemed to require ''pass-through'' voting with respect to the

shares of a registered management investment company underlying a UIT (an ''underlying fund'') to VLI Accounts supporting scheduled premium VLI Contracts and to their life insurance company depositors, investment advisers, and principal underwriters. The exemptions granted by the Rule are available, however, only if an underlying fund offers its shares exclusively to VLI Accounts of a single Participating Insurance Company or an affiliated insurance company, and then, only if scheduled premium VLI Contracts are issued through such VLI Accounts. Therefore, the relief granted by Rule 6e–2(b)(15) is not available with respect to a scheduled premium VLI Account that owns shares of an underlying fund that engages in mixed funding by also offering its shares to a VA Account or to a flexible premium VLI Account of the same company or of any affiliated life insurance company. In addition, the relief granted by Rule 6e–2(b)(15) is not available if the underlying fund engages in shared funding by offering its shares to VA Accounts and VLI Accounts of unaffiliated life insurance companies. Furthermore, Rule 6e–2(b)(15) does not contemplate that shares of the underlying fund might also be sold to Qualified Plans.

3. Rule 6e–3(T)(b)(15) under the Act provides partial exemptions from Sections 9(a), 13(a), 15(a), and 15(b) of the Act to VLI Accounts supporting flexible premium variable life insurance contracts and their life insurance company depositors, investment advisers and principal underwriters. The exemptions granted by the Rule are available, however, only where the Trust offers its shares exclusively to separate accounts of the Participating Insurance Company, or of any affiliated insurance company, offering either scheduled premium contracts or flexible premium contracts, or both, or which also offer their shares to VA Accounts of the Participating Insurance Company or of an affiliated life insurance company. Therefore, Rule 6e–3(T)(b)(15) permits mixed funding with respect to a flexible premium VLI Account, subject to certain conditions. However, Rule 6e–3(T)(b)(15) does not permit shared funding because the relief granted is not available with respect to a VLI Account that owns shares of an underlying fund that also offers its shares to separate accounts (including VA Accounts and flexible premium and scheduled premium VLI Accounts) of unaffiliated Participating Insurance Companies. Also, Rule 6e–3(T)(b)(15) does not contemplate that shares of the underlying fund might also be sold to Qualified Plans.

4. Applicants state that current tax law permits the Trust to sell its shares directly to Qualified Plans. Section 817(h) of the Code imposes certain diversification standards on the assets underlying Variable Contracts, such as those in the Trust. The Code provides that Variable Contracts will not be treated as annuity contracts or life insurance contracts, as the case may be, for any period (or any subsequent period) for which the underlying assets are not adequately diversified in accordance with regulations issued by the Treasury Department. On March 1, 1989, the Treasury Department adopted regulations (Treas. Reg. 1.817–5) (the ''Regulations'') which established specific diversification requirements for investment portfolios underlying Variable Contracts. The Regulations generally provide that, in order to meet these diversification requirements, all of the beneficial interests in the investment company must be held by the segregated asset accounts of one or more life insurance companies. Notwithstanding this, the Regulations also contain an exception to this requirement that permits trustees of a Qualified Plan to hold shares of an investment company, the shares of which are also held by insurance company segregated asset accounts, without adversely affecting the status of the investment company as an adequately diversified underlying investment for Variable Contracts issued through such segregated asset accounts (Treas. Reg. 1.817–5(f)(3)(iii)).

5. Applicants also note that the promulgation of Rules 6e–2(b)(15) and 6e–3(T)(b)(15) preceded the issuance of the Regulations. Thus, the sale of shares of the same investment company to both Participating Separate Accounts and Qualified Plans was not contemplated at the time of the adoption of Rules 6e–2(b)(15) and 6e–3(T)(b)(15), and, therefore, Applicants assert that the restrictions of such Rules do not evidence an intent of the Commission to prevent extended mixed funding.

6. Section 9(a)(3) of the Act provides that it is unlawful for any company to serve as investment adviser or principal underwriter for any registered open-end investment company if an affiliated person of that company is subject to a disqualification enumerated in Sections 9(a) (1) or (2). Rule 6e–2(b)(15) and Rule 6e–3(T)(b)(15) limit the application of the eligibility restrictions of Section 9(a) to affiliated persons of a life insurance company that directly participate in the management of the underlying registered management investment company under certain circumstances, subject to limitations on mixed and shared funding. The relief provided by Rule 6e–2(b)(15)(i) and Rule 6e–3(T)(b)(15)(i) permits persons who are affiliated persons of a life insurance company or its affiliates who otherwise would be disqualified under Section 9(a) to serve as an officer, director, or employee of an underlying fund, so long as any such person does not participate directly in the management or administration of such underlying fund. In addition, Rule 6e–2(b)(15)(ii) and Rule 6e–3(T)(b)(15)(ii) permit a Participating Insurance Company to serve as the underling fund's investment adviser or principal underwriter, provided that none of the insurance company's personnel who are ineligible pursuant to Section 9(a) of the Act participate in the management or administration of the underlying fund.

7. Applicants assert that the partial relief provided by Rules 6e–2(b)(15) and 6e–3(T)(b)(15) from the requirements of Section 9 limits the amount of monitoring of a Participating Insurance Company's personnel that is necessary to ensure compliance with Section 9 to that which is appropriate in light of the policy and purposes of Section 9. Applicants state that Rules 6e–2(b)(15) and 6e–3(T)(b)(15) recognize that applying the provisions of Section 9 to the many individuals in a large insurance company complex, most of whom typically will have no involvement in matters pertaining to investment companies funding the Participating Separate Accounts, is not necessary or appropriate in the public interest nor is it necessary for the protection of investors or the purposes fairly intended by the policy and provisions of the Act. Moreover, applicants assert that disallowing the relief permitted by Rule 6e–2(b)(15) and Rule 6e–3(T)(b)(15) because the Trusts will sell their shares to Qualified Plans would serve no regulatory purpose. Applicants assert that the sale of shares of an underlying fund to Qualified Plans does not change the fact that the purposes of the Act are not advanced by applying the prohibitions of Section 9(a) to individuals who may be involved in a life insurance complex but have no involvement in the underlying fund.

8. Rule 6e–2(b)(15)(iii) and Rule 6e–3(T)(b)(15)(iii) provide partial exemptions from Sections 13(a), 15(a), and 15(b) of the Act to the extent that those sections might be deemed to require ''pass-through'' voting with respect to the shares of an underlying fund, by allowing an issuance company to disregard the voting instructions of contract owners with respect to several

significant matters, assuming the limitations on mixed and shared funding are observed. Rules 6e–2(b)(15)(iii)(A) and 6e–3(T)(b)(15)(iii)(A) permit a Participating Insurance Company to disregard the voting instructions of its contract owners if such instructions would require an underlying fund's shares to be voted to cause such underlying fund to make (or to refrain from making) certain investments which would result in changes in the subclassification or investment objectives of such underlying fund or to approve or disapprove any contract between such underlying fund and an investment adviser when required to do so by an insurance regulatory authority (subject to the provisions of paragraphs (b)(5)(i) and (b)(7)(ii)(A) of the Rules). Rules 6e–2(b)(15)(iii)(B) and 6e–3(T)(b)(15)(iii)(A)(2) permit a Participating Insurance Company to disregard contract owners' voting instructions if the contract owners initiate any change in the underlying fund's investment objectives, principal underwriter or any investment adviser (provided that disregarding such voting instructions is reasonable and subject to the other provisions of paragraph (b)(5)(ii)and (b)(7)(ii) (B) and (C) of the Rules). Applicants assert that these rights do not raise any issues different from those raised by the authority of state insurance administrators over separate accounts.

9. Applicants assert that the reason the Commission did not grant more extensive relief in the area of mixed and shared funding when it adopted Rule 6e–3(T) is because of the Commission's uncertainty in this area with respect to such issues as conflicts of interest. Applicants believe that Commission concern is not warranted in the context of permitting shared funding or permitting Qualified Plans to invest in the Trust and that the addition of owners of Variable Contracts supported by separate accounts of unaffiliated life insurance companies and Qualified Plans as eligible shareholders will not increase the risk of material irreconcilable conflicts among shareholders.

10. Voting rights of shares sold to Qualified Plans are expressly reserved to certain specified persons and are not required to be passed through to Qualified Plan participants. Under Section 403(a) of the Employee Retirement Income Security Act (''ERISA''), shares of an underlying fund sold to a Qualified Plan must be held by the trustee(s) of the Qualified Plan, and such trustee(s) must have exclusive authority and discretion to manage and control the Qualified Plan with two exceptions: (a) When the Qualified Plan expressly provides that the trustee(s) are subject to the direction of a named fiduciary who is not a trustee, in which case the trustee(s) are subject to proper directions made in accordance with the terms of the Qualified Plan and not contrary to ERISA, and (b) when the authority to manage, acquire or dispose of assets of the Qualified Plan is delegated to one or more investment managers pursuant to Section 402(c)(3) of ERISA. Unless one of the above two exceptions stated in Section 403(a) applies, the exclusive authority and responsibility for voting shares of an underlying fund is vested in the plan trustees. Some of the Qualified Plans, however, may provide for the trustee(s), an investment adviser (or advisers) or another named fiduciary to exercise voting rights in accordance with instructions from participants.

11. If a named fiduciary to a Qualified Plan appoints an investment manager, the investment manager has the responsibility to vote the shares held unless the right to vote such shares is reserved to the trustees or the named fiduciary. The Qualified Plans may have their trustee(s) or other fiduciaries exercise voting rights attributable to investment securities held by the Qualified Plans in their discretion. Some of the Qualified Plans, however, may provide for the trustee(s), an investment adviser (or advisers) or another named fiduciary to exercise voting rights in accordance with instructions from participants.

12. If a Qualified Plan does not provide participants with the right to give voting instructions, the Applicants submit that there is no potential for material irreconcilable conflicts of interest between or among owners of Variable Contracts and participants in Qualified Plans with respect to voting of an underlying fund's shares. Accordingly, unlike the case with Participating Separate Accounts, the issue of the resolution of material irreconcilable conflicts with respect to voting is not present with respect to such Qualified Plans because the Qualified Plans are not entitled to pass-through voting privileges.

13. Applicants further note that there is no reason to believe that participants in Qualified Plans which provide participants with the right to give voting instructions generally, or those in a particular Plan, either as a single group or in combination with participants in other Qualified Plans, would vote in a manner that would disadvantage Variable Contract owners. Applicants, therefore, submit that the purchase of shares of the Trusts by Qualified Plans that provide voting rights does not present any complications not otherwise occasioned by mixed or shared funding.

14. Applicants state that the presence of both VLI Accounts and VA Accounts as shareowners of an underlying fund will not lead to a greater probability of material irreconcilable conflicts than if the underlying fund did not engage in mixed funding. Similarly, shared funding does not present any issues that do not already exist where an underlying fund sells its shares to a single insurance company which sells contracts in several states. A state insurance regulatory body in one state could require action that is inconsistent with the requirements of other states in which the insurance company offers its policies. The fact that unaffiliated insurers may be domiciled in different states does not create a significantly different or enlarged problem.

15. Applicants assert that shared funding by unaffiliated insurers, in this respect, is no different than the use of the same investment company as the funding vehicle for affiliated insurers, which Rules 6e–2(b)(15) and 6e–3(T)(b)(15) under the Act permit under various circumstances. Affiliated insurers may be domiciled in different states and be subject to differing state law requirements. Affiliation does not reduce the potential for differences in state regulatory requirements. Applicants state that the conditions summarized below are designed to safeguard against, and provide procedures for resolving, any adverse effects that differences among state regulatory requirements may produce. For instance, if a particular state insurance regulator's decision conflicts with the majority of other state regulators, then the affected insurer may be required to withdraw its Participating Separate Account's investment in the Trusts. This requirement will be provided for in agreements that will be entered into by Participating Insurance Companies with respect to their participation in the relevant Trust.

16. Rules 6e–2(b)(15) and 6e–3(T)(b)(15) under the Act give the insurance company the right to disregard the voting instructions of the contract owners. Applicants assert that this right does not raise any issues different from those raised by the authority of state insurance administrators over separate accounts. Under Rules 6e–2(b)(15) and 6e–3(T)(b)(15), an insurer can disregard contract owner voting instructions only with respect to certain specified items and under certain specified conditions. Requiring that only affiliated insurance

companies invest in the Trust does not eliminate the potential, if any exists, for divergent judgments as to the advisability or legality of a change in investment policies, principal underwriter, or investment adviser initiated by contract owners. Moreover, the potential for disagreement is limited by the requirements in Rules 6e–2 and 6e–3(T) that an insurance company's disregard of voting instructions be reasonable and based on specific good faith determinations.

17. A particular Participating Insurance Company's disregard of voting instructions, nevertheless, could conflict with the majority of contract owner's voting instructions. The insurer's action possibly could be different than the determination of all or some of the other Participating Insurance Companies (including affiliated insurers) that the voting instructions of contract owners should prevail, and either could preclude a majority vote approving the change or could represent a minority view. If the insurer's judgment represents a minority position or would preclude a majority vote, then the insurer may be required, at the election of the relevant Fund, to withdraw its Participating Separate Account's investment in such Fund, and no charge or penalty will be imposed as a result of such withdrawal. This requirement will be provided for in the agreements entered into with respect to participation by the Participating Insurance Companies in the Trust.

18. Applicants assert that there is no reason why the investment policies of the Portfolios would or should be materially different from what these policies would or should be if the Portfolios funded only VA Contracts or VLI Contracts. Each type of insurance product is designed as a long-term investment program. The Fund will be managed in the same manner as any other mutual fund and there is no incentive for the Fund's investment manager to invest to benefit a particular class of shareholders. In addition, the Board of Trustees has a fiduciary duty to oversee the Trusts' investment adviser and ensure that the Trusts are managed in a way that does not discriminate against any Trust shareholders.

19. Furthermore, Applicants assert that no one investment strategy can be identified as appropriate to particular insurance product. Each pool of VA and VLI Contract owners is composed of individuals of diverse financial status, age, insurance, and investment goals. A Portfolio supporting even one type of insurance product must accommodate these diverse factors in order to attract and retain purchasers. Permitting mixed and shared funding as well as permitting sales of Qualified Plans will provide benefits to the Trusts' shareholders. Among other things, Participating Insurance Companies and Variable Contract owners will benefit from a greater variety of investment options with lower costs.

20. Applicants do not believe that the sale of the shares of the Trusts to Qualified Plans will increase the potential for material irreconcilable conflicts of interest between or among different types of investors. Applicants assert that there are either no conflicts of interest or that there exists the ability by the affected parties to resolve the issues without harm to the contract owners in the Participating Separate Accounts or to the participants under the Qualified Plans.

21. As noted above, Section 817(h) of the Code imposes certain diversification standards on the underlying assets of variable annuity contracts and variable life insurance contracts held in the portfolios of management investment companies. The Code provides that a variable contract shall not be treated as an annuity contract or life insurance, as applicable, for any period (and any subsequent period) for which the investments are not, in accordance with the Regulations, adequately diversified.

22. The Regulations provide that, in order to meet the statutory diversification requirements, all of the beneficial interests in the investment company must be held by the segregated asset accounts of one or more insurance companies. The Regulations, however, contain certain exceptions to this requirement, one of which allows shares in an underlying mutual fund to be held by the trustees of a Qualified Plan without adversely affecting the ability of shares in the underlying fund also to be held by separate accounts of insurance companies in connection with their variable contracts (Treas. Reg. 1.817–5(f)(3)(iii)). Thus, the Regulations specifically permit Qualified Plans and separate accounts to invest in the same portfolio of an underlying fund. For this reason, Applicants assert that neither the Code, nor the Regulations, nor the Revenue Rulings thereunder, present any inherent conflicts of interest.

23. Applicants note that while there are differences in the manner in which distributions from Variable Contracts and Qualified Plans are taxed, the differing tax consequences do not raise any conflicts of interest. If the Participating Separate Account or the Qualified Plan cannot net purchase payments to make the distributions, the Participating Separate Account or the Qualified Plan will redeem shares of the Fund at their net asset value. The Qualified Plan then will make distributions in accordance with the terms of the Qualified Plan and the Participating Insurance Company will make distributions in accordance with the terms of the Variable Contract. Therefore, distributions and dividends will be declared and paid by the Fund without regard to the character of the shareholder.

24. Applicants that state it is possible to provide an equitable means of giving voting rights to Variable Contract owners and to the trustees of Qualified Plans. The transfer agent for the Fund will inform each Participating Insurance Company of its share ownership in each Participating Separate Account, as well as inform the trustees of Qualified Plans of their holdings. Each Participating Insurance Company then will solicit voting instructions in accordance with Rules 6e–2 and 6e–3(T), as applicable, and its participation agreement with the relevant Fund. Shares held by Qualified Plans will be voted in accordance with applicable law. The voting rights provided to Qualified Plans with respect to shares of the Trusts will be no different from the voting rights that are provided to Qualified Plans with respect to shares of funds sold to the general public.

25. Applicants submit that the ability of the Trusts to sell their shares directly to Qualified Plans does not create a ''senior security,'' as such term is defined under Section 18(g) of the Act, with respect to any contract owner as opposed to a participant under a Qualified Plan. Regardless of the rights and benefits of Variable Contract owners or participants under the Qualified Plans, the Qualified Plans and the Participating Separate Accounts have rights only with respect to their respective shares of the Trusts. They can only redeem such shares at their net asset value. No shareholder of the Trusts will have any preference over any other shareholder with respect to distribution of assets or payment of dividends.

26. Applicants assert that the veto power of state insurance commissioners over an underlying fund's investment objectives does not create any inherent conflicts of interest between the contract owners of the Participating Separate Accounts and Qualified Plan participants. Applicants note that the basic premise of corporate democracy and shareholder voting is that not all shareholders may agree with a particular proposal. Although the interests and opinions of shareholders may differ, this does not mean that inherent conflicts of interest exist

between or among such shareholders. State insurance commissioners have been given the veto power in recognition of the fact that insurance companies usually cannot simply redeem their separate accounts out of one fund and invest in another. Generally, time-consuming, complex transactions must be undertaken to accomplish such redemptions and transfers.

27. In contrast, the trustees of Qualified Plans or the participants in participant-directed Qualified Plans can make the decision quickly and redeem their interest in the Funds and reinvest in another funding vehicle without the same regulatory impediments faced by separate accounts or, as is the case with most Qualified Plans, even hold cash pending suitable investment.

28. Applicants also assert that the investment of seed capital in the Trust presents no potential for irreconcilable conflicts of interest. Seed capital for the trust will be provided by the Trust's investment adviser or by Participating Insurance Companies.

29. Applicants state that various factors have kept more insurance companies from offering variable annuity and variable life insurance contracts than currently offer such contracts. These factors include the costs of organizing and operating a funding medium, the lack of expertise with respect to investment management (principally with respect to stock and money market investments), and the lack of name recognition by the public of certain insurers as investment experts with whom the public feels comfortable entrusting their investment dollars. Use of a Trust as a common investment medium for variable contracts would reduce or eliminate these concerns. Mixed and shared funding also should provide several benefits to Variable Contract owners by eliminating a significant portion of the costs of establishing and administering separate funds. Participating Insurance Companies will benefit not only from the investment and administrative expertise of the Trusts' investment adviser, but also from the cost efficiencies and investment flexibility afforded by a large pool of funds. Mixed and shared funding also would permit a greater amount of assets available for investment by a Portfolio, thereby promoting economics of scale, by permitting increased safety through greater diversification, or by making the addition of new Portfolios more feasible. Applicants assert that the sale of shares of the Trusts to Qualified Plans in addition to the Separate Accounts will result in an increased amount of assets available for investment by such Trusts. This may benefit variable contract owners by promoting economies of scale, by permitting increased safety of investments through greater diversification, and by making the addition of new Portfolios more feasible.

30. Applicants assert that granting the exemptions requested by Applicants will not compromise the regulatory purposes of Sections 9(a), 13(a), 15(a) and 15(b) of the Act or Rules 6e–2(b)(15) or 6e–3(T)(b)(15) thereunder.

**Applicants' Conditions**

1. Applicants have consented to the following conditions:

a. A majority of the Board of each Trust will consist of persons who are not ''interested persons'' of such Trust, as defined by Section 2(a)(19) of the Act, and the rules thereunder, and as modified by any applicable orders of the Commission, except that if this condition is not met by reason of the death, disqualification, or bona-fide resignation of any trustee or trustees, then the operation of this condition will be suspended: (i) For a period of 45 days if the vacancy or vacancies may be filled by the Board; (ii) for a period of 60 days if a vote of shareholders is required to fill the vacancy or vacancies; or (iii) for such longer period as the Commission may prescribe by order upon application.

b. Each Board will monitor its respective Trust for the existence of any material irreconcilable conflict between the interests of the contract owners of all Separate Accounts and participants of all Qualified Plans investing in such Trust, and determine what action, if any, should be taken in response to such conflicts. A material irreconcilable conflict may arise for a variety of reasons, including: (i) An action by any state insurance regulatory authority; (ii) a change in applicable Federal or state insurance tax, or securities laws or regulations, or a public ruling, private letter ruling, no-action or interpretative letter, or any similar action by insurance, tax, or securities regulatory authorities; (iii) an administrative or judicial decision in any relevant proceeding; (iv) the manner in which the investments of such Trust are being managed; (v) a difference in voting instructions given by VA contract owners, VLI contract owners, and Plan investors or the trustees of a Qualified Plan that does not provide voting rights to its investors; (vi) Participating Insurance Company to disregard the voting instructions of contract owners; or (vii) if applicable, a decision by a Qualified Plan to disregard the voting instructions of Plan participants.

c. Each Trust will disclose in its prospectus that: (i) Shares of such Trust may be offered to insurance company separate accounts of both variable annuity and variable life insurance contracts and to Qualified Plans; (ii) due to differences in tax treatment and other considerations, the interests of various contract owners participating in such Trust and the interests of Qualified Plans investing in such Trust may conflict; and (iii) the Trust's Board of Trustees will monitor events in order to identify the existence of any material irreconcilable conflicts and to determine what action, if any, should be taken in response to any such conflict. Each Trust shall also notify the Qualified Plan trustees and Participating Insurance Companies that similar prospectus disclosure may be appropriate in Participating Separate Account prospectuses or any Plan prospectuses or other Plan disclosure documents.

d. Each Trust will comply with all provisions of the Act requiring voting by shareholders, including Sections 16(a), 16(b) (when applicable) and 16(c) (even though the Trust is not a trust of the type described therein).

e. RIEM will report any material irreconcilable conflicts or any potential material irreconcilable conflicts between or among the interests of VLI Contract owners, VA Contract owners and Plan participants to the Trust's Board of Trustees and will assist the Board in carrying out the Board's responsibilities under these conditions. Such assistance will include, but not be limited to, providing the Board, at least annually, with all information reasonably necessary for the Board to consider any issues raised by such existing or potential conflicts.

f. All reports sent by Participating Insurance Companies or Qualified Plans to the Board of Trustees of a Trust or notices sent by the Board of Trustees to Participating Insurance Companies or Qualified Plans notifying the recipient of the existence of or potential for a material irreconcilable conflict between the interests of VA Contract owners, VLI Contract owners and Plan participants as well as Board deliberations regarding such conflicts or such potential conflicts shall be recorded in the board meeting minutes of the Trust or other appropriate records, and such minutes or other records shall be made available to the Commission upon request.

2. In addition to the foregoing conditions, Applicants consent to the following conditions and represent and agree that if the exemptions requested are granted, a Trust will not sell shares to any VLI Account unless such

Account's Participating Insurance Company enters into a participation agreement with the Trust containing provisions that require the following:

a. A majority vote of the disinterested trustees of a Trust shall represent a conclusive determination as to the existence of a material irreconcilable conflict between or among the interests of VLI Contract owners, VA Contract owners and Qualified Plan investors. For the purpose of subparagraph (e) below, a majority vote of the disinterested trustees of that Trust shall represent a conclusive determination as to whether any proposed action adequately remedies any material irreconcilable conflict between or among the interests of VLI Contract owners, VA Contract owners and Qualified Plan investors. The Trust shall notify each Participating Insurance Company and Qualified Plan in writing of any determination of the foregoing type.

b. Each Participating Insurance Company will monitor its operations and those of the Trusts for the purpose of identifying any material irreconcilable conflicts or potential material irreconcilable conflicts between or among the interests of Qualified Plan investors, VA Contract owners and VLI Contract owners.

c. Each Participating Insurance Company will report any such conflicts or potential conflicts to a Trust's Board of Trustees and will provide the Board, at least annually, with all information reasonably necessary for the Board to consider any issues raised by such existing or potential conflicts or by these conditions. Each Participating Insurance Company will also assist the Board in carrying out its responsibilities under these conditions including, but not limited to: (i) Informing the Board whenever it disregards VLI Contract owner or VA Contract owner voting instructions; and (ii) providing, at least annually, such other information and reports as the Board may reasonably request. Each Participating Insurance Company will carry out these obligations with a view only to the interests of owners of its VLI Contracts and VA Contracts.

d. Each Participating Insurance Company will provide ''pass-through'' voting privileges to owners of registered VA Contracts and registered VLI Contracts as long as the Act requires such privileges in such cases. Accordingly, such Participating Insurance Companies, where applicable, will vote Trust shares held in their Participating Separate Accounts in a manner consistent with voting instructions timely received from owners of such VLI and VA Contracts. Each Participating Insurance Company will vote Trust shares owned by itself (*i.e.*, that are not attributable to VLI Contract or VLI Contract reserves) in the same proportion as instructions received in a timely fashion from VA Contract owners and VLI Contract owners and shall be responsible for ensuring that it and other Participating Insurance Companies calculate ''pass-through'' votes for VLI Accounts and VA Accounts in a consistent manner. Each Participating Insurance Company also will vote Trust shares held in any registered VLI Account or registered VA Account for which it has not received timely voting instructions in the same proportion as instructions received in a timely fashion from VA Contract owners and VLI Contract owners.

e. In the event that a material irreconcilable conflict of interest arises between VA Contract owners or VLI Contract owners and Qualified Plan participants, each Participating Insurance Company will, at its own expense, take whatever action is necessary to remedy such conflict as it adversely affects owners of its VA Contracts or VLI Contracts up to and including: (i) Establishing a new registered management investment company, and (ii) withdrawing assets attributable to reserves for the VA Contracts or VLI Contracts subject to the conflict from the Trust and reinvesting such assets in a different investment medium (including another Fund of the Trust) or submitting the question of whether such withdrawal should be implemented to a vote of all affected VA Contract owners or VLI Contract owners, and, as appropriate, segregating the assets supporting the contracts of any group of such owners that votes in favor of such withdrawal, or offering to such owners the option of making such a change. Each Participating Insurance Company will carry out the responsibility to take the foregoing action with a view only to the interests of owners of its VA Contracts and VLI Contracts. Notwithstanding the foregoing, each Participating Insurance Company will not be obligated to establish a new funding medium for any group of VA Contracts or VLI Contracts if an offer to do so has been declined by a vote of a majority of the VA Contract owners or VLI Contract owners adversely affected by the conflict.

f. If a material irreconcilable conflict arises because of a Participating Insurance Company's decision to disregard the voting instructions of VLI Contract owners or VA Contract owners and that decision represents a minority position or would preclude a majority vote at any Fund shareholder meeting, then, at the request of the Trust's Board of Trustees, the Participating Insurance Company will redeem the shares of the Trust to which the disregarded voting instructions relate. No charge or penalty, however, will be imposed in connection with such a redemption.

g. Each Participating Insurance Company and VLI Account will continue to rely on Rule 6e–2(b)(15) and/or Rule 6e–3(T)(b)(15), as appropriate, and to comply with all of the appropriate Rule's conditions. In the event that rule 6e–2 and/or Rule 6e–3(T) is amended, or any successor rule is adopted, each Participating Insurance Company and VLI Account will instead comply with such amended or successor rule.

h. Each Participating Insurance Company will maintain at its home office available to the Commission a list of its officers, directors and employees who participate directly in the management and administration of any separate account organized at a UIT or of any Fund. These individuals will continue to be subject to the automatic disqualification provisions of Section 9(a).

3. In addition to the foregoing conditions, Applicants consent to the following conditions and represent and agree that if the exemptions requested are granted, the Trust will not sell shares of any Fund to a Qualified Plan if such sale would result in the Qualified Plan owning 10% or more of that Fund's outstanding shares unless the Qualified Plan first enters into a participation agreement with the Trust containing provisions that require the following:

a. The trustees or plan committees of the Qualified Plan will: (i) Monitor the Qualified Plan's operations and those of the Trusts for the purpose of identifying any material irreconcilable conflicts or potential material irreconcilable conflicts between or among the interests of Qualified Plan participants, VA Contract owners and VLI Contract owners; (ii) report any such conflicts or potential conflicts to a Trust's Board of Trustees; (iii) provide the Board, at least annually, with all information reasonably necessary for the Board to consider any issues raised by such existing or potential conflicts and any other information and reports that the Board may reasonably request; (iv) inform the Board whenever it (or another fiduciary) disregards the voting instructions of Qualified Plan participants (of a Qualified Plan that provides voting rights to its participants); and (v) ensure that the Qualified Plan votes Trust shares as

required by applicable law and governing Qualified Plan documents. The trustees or plan committees of the Qualified Plan will carry out these obligations with a view only to the interests of Qualified Plan participants in its Qualified Plan.

b. In the event that a material irreconcilable conflict of interest arises between Qualified Plan investors and VA Contract owners, VLI Contract owners or other investors in the Trust, each Qualified Plan will, at its own expense, take whatever action is necessary to remedy such conflict as it adversely affects that Qualified Plan or participants in that Qualified Plan up to and including: (i) Establishing a new registered management investment company, and (ii) withdrawing Qualified Plan assets subject to the conflict from the Trusts and reinvesting such assets in a different investment medium (including another Fund of the Trusts) or submitting the question of whether such withdrawal should be implemented to a vote of all affected Qualified Plan investors, and, as appropriate, segregating the assets of any group of such participants that votes in favor of such withdrawal, or offering to such participants the option of making such a change. Each Qualified Plan will carry out the responsibility to take the foregoing action with a view only to the interests of Qualified Plan investors in its Qualified Plan. Notwithstanding the foregoing, no Qualified Plan will be obligated to establish a new funding medium for any group of participants or Qualified Plan investors if an offer to do so has been declined by a vote of a majority of the Qualified Plan's participants or Qualified Plan investors adversely affected by the conflict.

c. If a material irreconcilable conflict arises because of a Qualified Plan trustee's (or other fiduciary's) decision to disregard the voting instructions of Qualified Plan participants (of a Qualified Plan that provides voting rights to its participants) and that decision represents a minority position or would preclude a majority vote at any shareholder meeting, then, at the request of the Trust's Board of Trustees, the Qualified Plan will redeem the shares of that Trust to which the disregarded voting instructions relate. No charge or penalty, however, will be imposed in connection with such a redemption.

4. Applicants also represent and agree that if the exemptions requested are granted, a Trust will not sell shares of any Fund to a Qualified Plan until the Qualified Plan executes an application containing an acknowledgment of the condition that the Trust cannot sell shares of any Fund to such Qualified Plan if such sale would result in that Qualified Plan owning 10% or more of that Fund's outstanding shares unless that Qualified Plan first enters into a participation agreement as described above.

## Conclusion

For the reasons summarized above, Applicants assert that the requested exemptions are 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.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 98–21172 Filed 8–6–98; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 35–26901]**

## Filings Under the Public Utility Holding Company Act of 1935, as amended ("Act")

July 31, 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 under the Act. 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 is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by August 24, 1998, to the Secretary, Securities and Exchange Commission, Washington, D.C. 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 should 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 August 24, 1998, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

### Entergy Corporation et al (70–9305)

Entergy Corporation ("Entergy"), 639 Loyola Avenue, New Orleans, Louisiana 70113, a registered holding company, and its wholly owned subsidiary, Entergy Power, Inc. ("EPI"), Parkwood Two Building, 10055 Grogan's Mill Road, Suite 500, The Woodlands, Texas 77380, (collectively, "Declarants"), have filed a declaration under section 12(c) and 12(d) of the Act and rules 44, 46 and 54 under the Act.

In accordance with an order dated August 27, 1990 (HCAR No. 25136), EPI was formed to, among other things, supply electricity at wholesale to nonassociate companies and to acquire ownership interests in Unit No. 2 of the Independence Steam Electric Generating Station ("ISES 2")[1] and related assets, as well as other utility assets. EPI presently owns a 21.5% undivided ownership interest in ISES 2, a 10.75% undivided ownership interest in certain land and common facilities at the Independence Steam Electric Generating Station ("Independence Station"), and a 10.75% undivided ownership interest in the Certificate of Environmental Compatability and Public Need ("Certificate") for the Independence Station. EPI also owns a 10.75% undivided ownership interest in certain leases, mine facilities and mine equipment located in Wyoming ("Wyoming Property"), all of which is used to supply coal to the Independence Station.[2]

EPI now proposes to sell, prior to December 31, 1999, a portion of its interest in ISES 2 and related property to East Texas Electric Cooperative, Inc. ("ETEC"), for a total purchase price of approximately $30 million, representing an approximation of the present market value of the assets. Specifically, ETEC will acquire from EPI (1) a 7.13% undivided ownership interest in ISES 2 (equivalent to 60 megawatts of capacity); (2) a 3.56% undivided ownership interest in the land and

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[1] The Independence Steam Electric Generating Station is a two-unit, coal-fired electric generating facility located near Newark, Arkansas.

[2] By order dated August 2, 1996 (HCAR No. 26549), EPD sold a portion of its interest in ISES 2 and related property to City Water & Light Plant of Jonesboro ("City Water & Light") for a purchase price of approximately $37.5 million. In the sale, City Water & Light acquired from EPD (1) a 10% undivided ownership interest in ISES 2 (equivalent to 84 megawatts of capacity); (2) a 5% undivided ownership interest in the Certificate; (3) 5% undivided ownership interest in the land and common facilities at the Independence Station; and (4) 5% undivided ownership interest in the Wyoming Property.

common facilities at the Independence Station; (4) a 3.56% undivided ownership interest in certain assets of the Wyoming Property; and (5) a 5.49% undivided ownership interest in the other assets of the Wyoming Property. ETEC, an electric cooperative, presently purchases 70 megawatts of base load capacity from ISES 2 and wishes to replace a portion of this purchased power with an ownership interest in ISES 2.[3]

EPI intends to use the proceeds from the sale for general cooperate purposes, including a reduction in its operating and maintenance expenses and for other working capital needs. EPI further proposes, from time to time through December 31, 1999, to pay dividends to Entergy out of the unused proceeds from the proposed sale.

For the Commission, by the Division of Investment Management, under delegated authority.

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 98–21169 Filed 8–6–98; 8:45 am]

BILLING CODE 8010–01–M

[3] In addition, EPI will assign to ETEC rights and obligations under agreements among the owners of ISES 2 relating to the ownership and operation of ISES 2, in proportion to the percentage of the ownership interests of ISES 2 transferred to ETEC.

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. IC–23369]**

## Notice of Applications for Deregistration Under Section 8(f) of the Investment Company Act of 1940

July 31, 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 July 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, DC 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 August 25, 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, DC 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, DC 20549.

### GTF Advantage Funds [File No. 811–8353]

*Summary:* Applicant seeks an order declaring that it has ceased to be an investment company. Applicant has never made a public offering of its securities and does not propose to make a public offering or engage in business of any kind.

*Filing Dates:* The application was filed on May 6, 1998, and amended on June 30, 1998.

*Applicant's Address:* 350 Park Avenue, New York, New York 10022.

### John Hancock Investment Trust IV [File No. 811–5732]

*Summary:* Applicant seeks an order declaring that it has ceased to be an investment company. On December 5, 1997, applicant transferred all of its assets to John Hancock Growth Fund, a series of John Hancock Investment Trust III (''Trust III'') at net asset value. Applicant and Trust III paid approximately $84,500 and $74,407, respectively, in expenses in connection with the transaction.

*Filing Date:* The application was filed on May 26, 1998.

*Applicant's Address:* 101 Huntington Avenue, Boston, MA 02199–7603.

### TCW/DW Balanced Fund [File No. 811–7558]

*Summary:* Applicant seeks an order declaring that it has ceased to be an investment company. On March 16, 1998 applicant transferred all of its assets to Dean Witter Balanced Growth Fund (''Growth Fund'') at net asset value. Applicant and Growth Fund paid approximately $160,000 and $10,000, respectively, in expenses in connection with the transaction.

*Filing Date:* The application was filed on May 29, 1998.

*Applicant's Address:* Two World Trade Center, New York, New York 10048.

### The BlackRock Government Income Trust [File No. 811–6334]

*Summary:* Applicant seeks an order declaring that it has ceased to be an investment company. On January 30, 1998 applicant transferred all of its assets to Short-Intermediate Term Series (''SIT Series''), a series of Prudential Government Securities Trust, at net asset value. SIT Series paid $158,824.21 in expenses in connection with the transaction.

*Filing Date:* The application was filed on May 12, 1998.

*Applicant's Address:* Gateway Center Three, 100 Mulberry Street, Newark, NJ 07102–4077.

### Oppenheimer Strategic Income & Growth Fund [File No. 811–6639]

*Summary:* Applicant seeks an order declaring that it has ceased to be an investment company. On June 20, 1997, applicant transferred all of its assets to Oppenheimer Multiple Strategic Fund (''Strategies Fund''), based on the relative net asset values per share. Applicant and Strategic Fund paid $32,345 and $30,423, respectively, in expenses in connection with the transaction.

*Filing Date:* The application was filed on November 28, 1997, and amended on June 24, 1998.

*Applicant's Address:* Two World Trade Center, New York, New York 10048–0203.

### Jefferson-Pilot Investment Grade Bond Fund, Inc. [File No. 811–2808]; Jefferson-Pilot Capital Appreciation Fund, Inc. [File No. 811–2013]

*Summary:* Each applicant seeks an order declaring that it has ceased to be an investment company. On December 20, 1996, each applicant transferred substantially all of its assets and liabilities to the Oppenheimer Bond Fund, a series of Oppenheimer Integrity Funds, and the Oppenheimer Growth Fund (collectively, the ''Oppenheimer Funds''), respectively, based on the relative net asset values per share. Approximately $189,000 in expenses were incurred. Oppenheimer Funds, Inc., investment adviser to the Oppenheimer Funds, paid $100,000, and JP Investment Management Company, applicants' investment adviser, paid approximately $89,000 in the aggregate in connection with the two reorganizations.

*Filing Dates:* Each application was filed on September 17, 1997, and amended on October 27, 1997, and June 30, 1998.

*Applicants' Address:* 100 North Greene Street, Greensboro, North Carolina 27401.

### Colonial Value Investing Portfolios—Income Portfolio [File No. 811–5217]

*Summary:* Applicant seeks an order declaring that it has ceased to be an investment company. On June 5, 1992

applicant transferred all of its assets to corresponding series of Colonial Trust I, Colonial Trust II and Colonial Trust IV at net asset values. The four series of applicant, Money Market Fund, High Income Fund, Federal Securities Fund and High Yield Municipal Bond Fund paid $15,956, $22,188, $38,011, and $22,472, respectively, in expenses in connection with the transaction. Colonial Trust I, Colonial Trust II, and Colonial Trust IV paid $16,825, $38,860, and $22,375, respectively, in expenses.

*Filing Dates:* The application was filed on June 2, 1998 and amended on July 20, 1998.

*Applicant's Address:* One Financial Center, Boston, MA 02111.

**Putnam Dividend Growth Fund [File No. 811–4523]; Putnam Diversified Premium Income Trust [File No. 811–5800]**

*Summary:* Each applicant seeks an order declaring that it has ceased to be an investment company. On September 23, 1995, Putnam Dividend Growth Fund transferred its assets and liabilities to Putnam Growth and Income Fund II (''Growth and Income Fund''), based on the relative net asset value per share of each fund. Applicant and Growth and Income Fund paid $102,848 and $64,220, respectively, in expenses related to the reorganization. On January 20, 1992, Putnam Diversified Premium Income Trust transferred its assets and liabilities to Putnam Diversified Income Trust (''Diversified Income Trust''), based on the relative net asset value per share of each fund. Applicant and Diversified Income Trust paid $131,357, and $120,791, respectively, in expenses related to the reorganization.

*Filing Date:* Each application was filed on June 25, 1998.

*Applicants' Address:* One Post Office Square, Boston, Massachusetts 02109.

**Vanguard Small Capitalization Stock Fund, Inc. [File No. 811–928]**

*Summary:* Applicant seeks an order declaring that it has ceased to be an investment company. On January 31, 1994, applicant transferred all of its assets to Small Capitalization Stock Portfolio, a series of Vanguard Index Trusts, based on applicant's net asset value per share. Applicant paid $29,234 in expenses in connection with the transaction.

*Filing Dates:* The application was filed on April 6, 1998 and amended on July 24, 1998.

*Applicant's Address:* P.O. Box 110, Valley Forge, PA 19482

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 98–21171 Filed 8–6–98; 8:45 am]

BILLING CODE 8010–01–M

## SMALL BUSINESS ADMINISTRATION

### Declaration of Disaster #3105: State of New York (Amendment #2)

In accordance with a notice from the Federal Emergency Management Agency dated July 20, 1998, the above-numbered Declaration is hereby amended to include Genesee, Livingston, and Monroe Counties in the State of New York as a disaster area due to damages caused by severe storms and flooding beginning on June 25, 1998 and continuing through July 10, 1998.

In addition, applications for economic injury loans from small businesses located in the contiguous counties of Ontario, Orleans, Steuben, and Wayne in New York may be filed until the specified date at the previously designated location.

Any counties contiguous to the above-name primary counties and not listed herein have been previously declared.

All other information remains the same, i.e., the deadline for filing applications for physical damage is September 5, 1998 and for economic injury the termination date is April 7, 1999.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: July 27, 1998.

**Bernard Kulik,**

*Associate Administrator for Disaster Assistance.*

[FR Doc. 98–21176 Filed 8–6–98; 8:45 am]

BILLING CODE 8025–01–P

## SMALL BUSINESS ADMINISTRATION

**[Declaration of Disaster #3100]**

### State of Ohio; Amendment #1

In accordance with a notice from the Federal Emergency Management Agency dated July 20, 1998, the above-numbered Declaration is hereby amended to include Morrow County, Ohio as a disaster area due to damages caused by severe storms, flooding, and tornadoes beginning on June, 24, 1998 and continuing.

In addition, applications for economic injury loans from small businesses located in Marion County, Ohio which is contiguous may be filed until the specified date at the previously designated location.

Any counties contiguous to the above-name primary county and not listed herein have been previously declared.

All other information remains the same, i.e., the deadline for filing applications for physical damage is August 29, 1998 and for economic injury the termination date is March 30, 1999.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: July 27, 1998.

**Bernard Kulik,**

*Associate Administrator for Disaster Assistance.*

[FR Doc. 98–21173 Filed 8–6–98; 8:45 am]

BILLING CODE 8025–01–P

## SMALL BUSINESS ADMINISTRATION

**[Declaration of Disaster #3101]**

### State of Vermont; Amendment #3

In accordance with information received from the Federal Emergency Management Agency, the above-numbered Declaration is hereby amended to establish the incident period for this disaster as beginning on June 17, 1998 and continuing through July 13, 1998.

All other information remains the same, i.e., the deadline for filing applications for physical damage is August 29, 1998 and for economic injury the termination date is March 30, 1999.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: July 27, 1998.

**Bernard Kulik,**

*Associate Administrator for Disaster Assistance.*

[FR Doc. 98–21174 Filed 8–6–98; 8:45 am]

BILLING CODE 8025–01–P

## SMALL BUSINESS ADMINISTRATION

**[Declaration of Disaster #3102]**

### State of West Virginia; Amendment #1

In accordance with a notice from the Federal Emergency Management Agency dated July 20, 1998, the above-numbered Declaration is hereby amended to include Harrison, Marshall, Ohio, and Wetzel Counties in the State of West Virginia as a disaster area due to damages caused by severe storms, flooding, and tornadoes beginning on June 26, 1998 and continuing.

In addition, applications for economic injury loans from small businesses located in the contiguous counties of

Barbour and Brooke in West Virginia, and Greene and Washington Counties in Pennsylvania may be filed until the specified date at the previously designated location. Any counties contiguous to the above-name primary counties and not listed herein have been previously declared.

All other information remains the same, i.e., the deadline for filing applications for physical damage is August 30, 1998 and for economic injury the termination date is April 1, 1999.

The economic injury number for the State of Pennsylvania is 995800.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: July 27, 1998.

**Bernard Kulik,**

*Associate Administrator for Disaster Assistance.*

[FR Doc. 98–21175 Filed 8–6–98; 8:45 am]

BILLING CODE 8025–01–P

## DEPARTMENT OF TRANSPORTATION

## Coast Guard

**[USCG–1998–4272]**

## Application for Recertification of Cook Inlet Regional Citizens' Advisory Council

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of availability; request for comments.

**SUMMARY:** The Coast Guard announces the availability of the application for recertification submitted by the Cook Inlet Regional Citizens' Advisory Council (CIRCAC) for September 1, 1998, through August 31, 1999. Under the Oil Terminal and Oil Tanker Environmental Oversight and Monitoring Act of 1990 (33 U.S.C. 2732), the Coast Guard may certify, on an annual basis, an alternative voluntary advisory group in lieu of Regional Citizens' Advisory Councils for Cook Inlet.

**DATES:** Comments must reach the Docket Management Facility on or before September 21, 1998.

**ADDRESSES:** You may mail your comments to the Docket Management Facility (USCG––1998–XXXX), U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001, or deliver them to room PL–401 on the Plaza level of the Nassif Building at the same address between 10 a.m. and 5 p.m. Monday through Friday, except Federal holidays.

The Docket Management Facility maintains the public docket for this recertification process. Comments regarding recertification, and documents as indicated in this preamble, will become part of this docket and will be available for inspection or copying at room PL–401 on the Plaza level of the Nassif Building at the same address between 10 a.m. amd 5 p.m., Monday through Friday, except Federal holidays. You may also access this docket on the Internet at http://dms.dot.gov.

A copy of the applicant is also available for inspection at the Cook Inlet Regional Citizens' Advisory Council's Offices, at 910 Highland Ave., Kenai, Alaska 99611–8033 between the hours of 8 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is (907) 283–7222 in Kenai, Alaska.

**FOR FURTHER INFORMATION CONTACT:** For general information regarding the CIRCAC contact Lt. Pittman, Marine Safety and Environmental Protection Directorate, Office of Response (G–MOR–1), (202) 267–0426. For questions on viewing, or submitting material to, the docket, contact Dorothy Walker, Chief, Dockets, Department of Transportation, telephone 202–366–9329.

**SUPPLEMENTARY INFORMATION:**

### Request for Comments

The Coast Guard encourages interested persons to submit written data, views, or arguments. It solicits comments from interested groups including oil terminal facility owners and operators, owners and operators of crude oil tankers calling at terminal facilities, and fishing, aquacultural, recreational and environmental citizens groups, concerning the recertification application of CIRCAC. Persons submitting comments should include their names and addresses, identify this rulemaking (USCG–1998–XXXX) and the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing to the Docket Management Facility at the address under **ADDRESSES**. Persons wanting acknowledgment of receipt of comments should enclose stamped, self-addressed postcards or envelopes.

The Coast Guard will consider all comments received during the comment period. It may change this recertification application or application process in view of the comments.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Docket Management Facility at the address under **ADDRESSES**. The request should include the reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentations will aid this recertification process, the Coast Guard will hold a public hearing at time and place announced by a later notice in the **Federal Register**.

### Background and Purpose

The Coast Guard published guidelines on December 31, 1992, to assist groups seeking recertification under the Oil Terminal and Oil Tanker Environmental Oversight and Monitoring Act of 1990 (33 U.S.C. 2732) (the Act) (57 FR 62600). The Coast Guard issued a policy statement on July 7, 1993 (58 FR 36505), to clarify the factors that the Coast Guard would be considering in making its determination as to whether advisory groups should be certified in accordance with the Act; and the procedures which the Coast Guard would follow in meeting its certification responsibilities under the Act.

The Coast Guard has received an application for recertification of CIRCAC, the currently certified advisory group for the Cook Inlet region. In accordance with the review and certification process contained in the policy statement, the Coast Guard announces the availability of that application.

At the conclusion of the comment period, the Coast Guard will review all application materials and comments received and will take one of the following actions:

(a) Recertify the advisory group under 33 U.S.C. 2732(o).

(b) Issue a conditional recertification for a period of 90 days, with a statement of any discrepancies which must be corrected to qualify for recertification for the remainder of the year.

(c) Deny recertification of the advisory group if the Coast Guard finds that the group is not broadly representative of the interests and communities in the area or is not adequately fostering the goals and purposes of the Act.

The Coast Guard will notify CIRCAC by letter of the action taken on its application. A notice will be published in the **Federal Register** to advise the public of the Coast Guard's determination.

Dated: July 29, 1998.

**R.C. North,**

*Rear Admiral, U.S. Coast Guard, Assistant Commandant for Marine Safety and Environmental Protection.*

[FR Doc. 98–21190 Filed 8–6–98; 8:45 am]

BILLING CODE 4910–15–M

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

**[USCG–1998–4271]**

### Application for Recertification of Prince William Sound Regional Citizens' Advisory Council

**AGENCY:** Coast guard, DOT.

**ACTION:** Notice of availability; request for comments.

**SUMMARY:** The Coast Guard announces the availability of the application for recertification submitted by the Prince William Sound Regional Citizens' Advisory Council (PWSRCAC) for September 1, 1998, through August 31, 1999. Under the Oil Terminal and Oil Tanker Environmental Oversight and Monitoring Act of 1990 (33 U.S.C. 2732), the Coast guard may certify, on an annual basis, an alternative voluntary advisory group in lieu of Regional Citizens' Advisory Councils for Prince William Sound.

**DATES:** Comments must reach the Docket Management Facility on or before September 21, 1998.

**ADDRESSES:** You may mail your comments to the Docket Management Facility. (USCG–1998–4271), U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington DC 20590–0001, or deliver them to room PL–401 on the Plaza level of the Nassif Building at the same address between 10 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

The Docket Management Facility maintains the public docket for this recertification process. Comments regarding recertification, and documents as indicated in this preamble, will become part of this docket and will be available for inspection or copying at room PL–401 on the Plaza level of the Nassif Building at the same address between 10 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also access this docket on the Internet at http://dms.dot.gov.

A copy of the application is also available for inspection at the prince William Sound Regional Citizens' Advisory Council's Offices, at 750 W. 2nd Ave., Suite 100, Anchorage, Alaska, 99502 or 154 Fairbanks Dr., P.O. Box 3089, Valdez, Alaska, 99686, between the hours of 8 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is (907) 277–7222 in Anchorage, Alaska and (907) 835–5957 in Valdez, Alaska.

**FOR FURTHER INFORMATION CONTACT:** For general information regarding the PWSRCAC contact LT Pittman, Marine Safety and Environmental Protection Directorate, Office of Response, (G–MOR–1), (202) 267–0426. For questions on viewing, or submitting material to, the docket, contact Dorothy Walker, Chief, Dockets, Department of Transportation, telephone 202–366–9329.

**SUPPLEMENTARY INFORMATION:**

#### Request for Comments

The Coast Guard encourages interested persons to submit written data, views, or arguments. It solicits comments from interested groups including oil terminal facility owners and operators, owners and operators of crude oil tankers calling at terminal facilities, and fishing, aquacultural, recreational and environmental citizens groups, concerning the recertification application of PWSRCAC. Persons submitting comments should include their names and addresses, identify this rulemaking (USCG–1998–XXXX) and the specific section of this document to which each comment applies, and give the reason for each comment. Please submit two copies of all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose stamped, self-addressed postcards or envelopes.

The Coast Guard will consider all comments received during the comment period. It may change this recertification application or application process in view of the comments.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the docket Management Facility at the address under ADDRESSES. The request should include the reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentations will aid this recertification process, the Coast guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register.**

#### Background and Purpose

The Coast Guard published guidelines on December 31, 1992, to assist groups seeking recertification under the Oil Terminal and Oil Tanker Environmental Oversight and Monitoring Act of 1990 (33 U.S.C. 2732) (the Act) (57 FR 62600). The coast Guard issued a policy statement on July 7, 1993 (58 FR 36505), to clarify the factors that the Coast guard would be considering in making its determination as to whether advisory groups should be certified in accordance with the Act; and the procedures which the coast guard would follow in meeting its certification responsibilities under the Act.

The Coast Guard has received an application for recertification of PWSRCAC, the currently certified advisory group for the Prince William Sound region. In accordance with the review and certification process contained in the policy statement, the Coast Guard announces the availability of that application.

At the conclusion of the comment period, the Coast Guard will review all application materials and comments received and will take one of the following actions:

(a) Recertify the advisory group under 33 U.S.C. 2732(o).

(b) Issue a conditional recertification for a period of 90 days, with a statement of any discrepancies which must be corrected to qualify for recertification for the remainder of the year.

(c) Deny recertification of the advisory group if the Coast Guard finds that the group is not broadly representative of the interests and communities in the area or is not adequately fostering the goals and purposes of the Act.

The Coast Guard will notify PWSRCAC by letter of the action taken on its application. A notice will be published in the **Federal Register** to advise the public of the Coast Guard's determination.

Dated: July 29, 1998.

**R.C. North,**

*Rear Admiral, U.S. Coast Guard, Assistant Commandant for Marine Safety and Environmental Protection.*

[FR Doc. 98–21188 Filed 8–6–98; 8:45 am]

BILLING CODE 4910–15–M

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

**[USCG 1998–4273]**

### Merchant Marine Personnel Advisory Committee

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of meeting.

**SUMMARY:** The Merchant Marine Personnel Advisory Committee (MERPAC) and its working groups will meet to discuss various issues relating to the training and fitness of merchant marine personnel. MERPAC advises the Secretary of Transportation on matters relating to the training, qualifications, licensing, certification and fitness of seamen serving in the U.S. merchant marine. All meetings will be open to the public.

**DATES:** MERPAC will meet on Wednesday, September 2, 1998, from 8

a.m. to 4 p.m. and on Thursday, September 3, 1998, from 8 a.m. to 3 p.m. These meetings may adjourn early if all business is finished. Written material and requests make oral presentations should reach the Coast Guard on or before August 19, 1998. Requests to have a copy of your material distributed to each member of the committee or subcommittee should reach the Coast Guard on or before August 19, 1998.

**ADDRESSES:** MERPAC will meet on both days at the Calhoon MEBA School, 27050 St. Michael's Road, Easton, MD 21601. Send written material and requests to make oral presentations to Commander Steven J. Boyle, Commandant (G–MSO–1), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001. This notice is available on the Internet at http:dms.dot.gov.

**FOR FURTHER INFORMATION CONTACT:** For questions on this notice, contact Commander Steven J. Boyle, Executive Director of MERPAC, or Mr. Mark C. Gould, Assistant to the Executive Director, telephone 202–267–0229, fax 202–267–4570, or e-mail mgould@comdt.uscg.mil. For questions on viewing or submitting material to the docket, contact Dorothy Walker, Chief, Dockets, Department of Transportation, 202–366–9329.

**SUPPLEMENTARY INFORMATION:** Notice of these meetings is given under the Federal Advisory Committee Act, 5 U.S.C. App. 2.

### Agenda of September 2, 1998, Meeting

The full committee will meet to discuss the objectives for the meeting. The committee will then break up into the following working groups: the working group on the International Convention on the Standards of Training, Certification and Watchkeeping (STCW); the working group on the National Maritime Center/ Licensing Re-Engineering Team; and the working group on the Assessment of Proficiencies as Mandated by the Amended 1995 STCW Convention. At the end of the day, the working groups will make a report to the full committee on what has been accomplished in their meetings. No action will be taken on these reports on this date.

### Agenda of September 3, 1998, Meeting

*Merchant Marine Personnel Advisory Committee (MERPAC)*

The agenda includes the following:
(1) Introduction.
(2) Working Group Reports.
(3) Other items to be discussed:
  (a) Standing Committee—Prevention Through People
  (a) STCW developments
  (b) Outcome of committee's recommendations to USCG on one person bridge watchstanding proposal
  (c) Report from NMC on changes in licensing requirements for Offshore Supply Vessels
  (d) Other items brought up for discussion by the committee or the public

### Procedural

Both meetings are open to the public. Please note that the meetings may adjourn early if all business is finished. At the Chair's discretion, members of the public may make oral presentations during the meetings. If you would like to make an oral presentation at a meeting, please notify the Executive Director no later than August 19, 1998. Written material for distribution at a meeting should also reach the Coast Guard no later than August 19, 1998. If you would like a copy of your material distributed to each member of the committee or subcommittee in advance of a meeting, please submit 25 copies to the Executive Director no later than August 19, 1998.

### Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meetings, contact the Executive Director as soon as possible.

Dated: July 29, 1998.

**Joseph J. Angelo,**

*Director of Standards, Marine Safety and Environmental Protection.*

[FR Doc. 98–21189 Filed 8–6–98; 8:45 am]

BILLING CODE 4910–15–M

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## DEPARTMENT OF TRANSPORTATION

## Federal Highway Administration

## Environmental Impact Statement: Fort Bend and Brazoria Counties, TX

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**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 transportation project in Fort Bend and Brazoria Counties, Texas.

**FOR FURTHER INFORMATION CONTACT:** Mr. John Mack, P.E., Federal Highway Administration, Texas Division, 300 East 8th Street, Room 826, Austin, Texas 78701, Telephone (512) 916–5516.

**SUPPLEMENTARY INFORMATION:** The FHWA, in cooperation with the Texas Department of Transportation (TxDOT) and the Grand Parkway Association, will prepare an environmental impact statement (EIS) on a proposal to upgrade the existing road network in Fort Bend and Brazoria Counties. A major investment study is underway to evaluate various modal options between U.S. 59 (S) and SH 288. The proposed action will occur within a corridor in Fort Bend and Brazoria Counties. The majority of this corridor crosses relatively undeveloped properties in Fort Bend and Brazoria Counties. Cities and towns in the region include, Sugar Land, Richmond, Rosenberg, Missouri City, Thompsons and Iowa Colony.

The Grand Parkway Association proposes to build a facility to provide improved transportation characteristics in the region, including improvement to the evacuation routes from coastal areas in Harris, Galveston, and Brazoria Counties.

Several alignment alternatives will be discussed in the Draft Environmental Impact Statement (DEIS). The DEIS will also include evaluation of the no action alternative. Alignment alternatives through and near urban areas as will as alignments through farmland will be evaluated in the DEIS.

Impacts caused by the construction and operation of the facility will vary according to the alternative alignment utilized. Generally, impacts would include the following: transportation impacts (construction detours, construction traffic, mobility improvement and evacuation route improvement), air and noise impacts from construction equipment and operation of the facility, water quality impacts from construction area and roadway storm water runoff, impacts to waters of the United States including wetlands from right of way encroachment, and impacts to residents and businesses based on potential displacements.

Letters describing the proposed action soliciting comments will be sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed or are known to have interest in this proposal. A public scoping meeting will be held at August 20, 1998 at the George Ranch Historical Park, 5 miles south of US 59 on FM 762 in Guy Hall at 7:00 P.M. Public comments on the proposed action and alternatives will be requested. This will be the first of a series of meetings to evaluate alternatives, corridor alternatives and design alternative alignments. a public hearing will be held at a later time, with

copies of DEIS available for public and agency review and comment prior to the public hearing.

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 Environmental Impact Statement should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway and Planning and Construction. The regulations implementing Executive Order 12372 regarding governmental consultation on Federal programs and activities apply to this program.)

**John R. Mack,**

*District Engineer, Austin, Texas.*

[FR Doc. 98–21218 Filed 8–6–98; 8:45 am]

BILLING CODE 4910–22–M

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## DEPARTMENT OF TRANSPORTATION

## Federal Transit Administration

## Environmental Impact Statement: Transportation Improvements Within the Desire Corridor in New Orleans, LA

**AGENCY:** Federal Transit Administration (FTA), DOT.

**ACTION:** Notice of Intent to prepare an environmental impact statement.

**SUMMARY:** The FTA is issuing this notice to advise interested agencies and the public that an environmental impact statement may be prepared for transportation improvements in the Desire Corridor in New Orleans, Louisiana.

**DATES:** *Comment Due Date:* Written comments on the scope of the alternatives and impacts to be considered should be sent to Ed Bayer, RTA Manager of Planning, by September 11, 1998. *Scoping Meetings:* A public scoping meeting will be held on Thursday, September 24, 1998, from 7 p.m. to 9 p.m., and an interagency scoping meeting will be held on Tuesday, September 1, 1998, from 9:30 a.m. to 11:30 a.m. See **ADDRESSES** below.

**ADDRESSES:** Written comments on the scope should be sent to Ed Bayer, Manager of Planning, Regional Transit Authority (RTA), 6700 Plaza Drive, New Orleans, Louisiana 70127–2677. Scoping meetings will be held at the following locations:

*Public Scoping*

Thursday, September 24, 1998, from 7 p.m. to 9 p.m., McDonough School #15 (Cafeteria), 721 St. Philip Street, New Orleans, Louisiana 70112

*Interagency Scoping*

Tuesday, September 1, 1998, from 9:30 a.m. to 11:30 a.m., Regional Planning Commission, 333 St. Charles Avenue, Suite 1100, New Orleans, Louisiana 70130

**FOR FURTHER INFORMATION CONTACT:** Mrs. Peggy Crist, Director of Planning and Program Development, Federal Transit Administration Region 6, 524 East Lamar Boulevard, Suite 175, Arlington, Texas 76011–5704; Telephone: (817) 860–9663.

**SUPPLEMENTARY INFORMATION:** The FTA, in cooperation with the Regional Transit Authority (RTA), may prepare an environmental impact statement (EIS) for proposed transportation improvements in the New Orleans Vieux Carré (French Quarter) and adjacent neighborhoods. The transportation improvements are being defined in conjunction with a Major Investment Study (MIS) which will include the NEPA scoping process, the identification and evaluation of concept and scope alternatives, and the selection of a preferred design concept and scope alternative or alternatives. Subsequently, alternative alignments and designs that are consistent with the selected concept and scope may be addressed in an EIS. It is important to note that a final decision to prepare an EIS has not been made at this time. This decision will be made at the end of the major investment study, and will depend upon the nature of the selected concept and its expected impacts.

### I. Scoping

A public scoping meeting will be held by RTA on Thursday, September 24, 1998, between 7 p.m. and 9 p.m. in the cafeteria of McDonough School #15, 721 St. Philip Street, New Orleans, Louisiana 70112. FTA and RTA invite interested individuals, organizations, and public agencies to attend the scoping meeting and participate in establishing the purpose, alternatives, time framework, and analysis approach, as well as an active public involvement program. The public is invited to comment on the alternatives to be addressed, the modes and technologies to be evaluated, the alignments and termination points to be considered, the environmental, social, and economic impacts to be analyzed, and the evaluation approach to be used to select a locally preferred alternative. People with special needs should call the Desire Corridor MIS hotline at (504) 945–8025. The building for the scoping meeting is accessible to people with disabilities.

An interagency scoping meeting will be held on Tuesday, September 1, 1998, from 9:30 a.m. to 11:30 a.m. at the Regional Planning Commission, 333 St. Charles Avenue, Suite 1100, New Orleans, Louisiana 70130. Federal, state, and local public agencies are invited to attend.

To ensure that a full range of issues is addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions should be directed to the RTA at the address provided above.

### II. Description of Study Area and Its Transportation Needs

The Desire Corridor is located in the historic center of New Orleans, extending approximately three miles from Canal Street, bordering the central business district, eastward to the Industrial Canal, a major commercial waterway connecting the Mississippi River to the Intracoastal Waterway and Lake Pontchartrain. The Corridor is approximately one-half mile wide, from the riverfront north to Rampart Street/St. Claude Avenue. It includes the historic Vieux Carré (French Quarter), a world-renowned tourist center with related commercial activities, and two distinct residential areas, the Faubourg Marigny, and the Bywater neighborhoods. It is the home of the U.S. Navy Support Activity Center and the soon-to-be-completed New Orleans Center for the Creative Arts (NOCCA), and is adjacent to the Louis Armstrong performing arts center and St. Claude Medical Center (hospital).

Until 1948/49, the Corridor was served by the Desire and St. Claude streetcar lines, subsequently converted to bus lines. The area is currently served or crossed by the Riverfront streetcar line, nine bus routes, and a number of private shuttle bus operations and taxicab services. These services operate on narrow streets throughout the Corridor, or on a limited number of major arterials at the perimeter of the Corridor.

The French Quarter is the most congested area of the city and the region, with high volumes of both vehicular and pedestrian traffic, and limited on-street and off-street parking. These conditions, combined with the major festivals and conventions throughout the year, create a unique transportation environment for residents, employees, and visitors.

## III. Alternatives

It is expected that the scoping meeting and written comments will be a major source of candidate alternatives for consideration in the study. The following describes the No-Build, Enhanced Bus/Transportation Systems Management (TSM), Busway/High Occupancy Vehicle (HOV), and Streetcar Build Alternatives that are suggested for consideration in the Desire Corridor MIS:

1. No-Build Alternative—Existing and planned transit service and programmed new transportation facilities to the year 2020;

2. Enhanced Bus/TSM Alternative—Changes in existing bus routes to provide better service and low-cost transportation improvements, such as bus prioritization at signalized intersections and special bus lanes.

3. Busway/High Occupancy Vehicle (HOV) Alternative—Exclusive lanes for buses and/or carpools to move people faster.

4. Streetcar Alternative—A new Desire streetcar line, possibly following a historic streetcar alignment through the French Quarter or along Rampart Street/St. Claude Avenue, or on a new alignment along the riverfront or following existing streets through the eastern portion of the Corridor.

Based on public input received during scoping, variations of the above alternatives and other transportation-related improvement options, both transit and non-transit, will be considered for the Desire Corridor.

## IV. Probable Effects

Issues and impacts to be considered during the study include potential changes to: The physical environment (air quality, noise, water quality, aesthetics, etc.); the social environment (land use, development, neighborhoods, etc.); parklands and historic resources; transportation system performance; capital operating and maintenance costs; financial resources available and financial impact on the RTA. The entire Corridor is listed on the National Register of Historic Places, so potential impacts on standing structures and historic districts (i.e., noise, vibration, trees, etc.) will be important. Vehicular/pedestrian circulation, parking and in-street operation of buses and streetcars are key considerations.

Evaluation criteria will include consideration of the local goals and objectives established for the study, measures of effectiveness identified during scoping, and criteria established by FTA for ''New Start'' transit projects.

Issued on: August 4, 1998.

**Blas M. Uribe,**

*Deputy Regional Administrator.*

[FR Doc. 98–21185 Filed 8–6–98; 8:45 am]

BILLING CODE 4910–57–P

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## DEPARTMENT OF TRANSPORTATION

### Research and Special Programs Administration

### Potential Computer Problems Related to the Year 2000 (Y2K)

**AGENCY:** Research and Special Programs Administration (RSPA), DOT.

**ACTION:** Notice; issuance of advisory bulletin.

RSPA is issuing an advisory bulletin to owners and operators of Hazardous Liquid and Natural Gas Pipelines. The bulletin advises the industry about the potential for Year 2000 (Y2K) computer-related problems.

**ADDRESSES:** This document can be viewed on the Office of Pipeline Safety (OPS) home page at: http://ops.dot.gov.

**FOR FURTHER INFORMATION CONTACT:** Roger Little, (202) 366–4569.

**SUPPLEMENTARY INFORMATION:**

## I. Background

Office of Pipeline Safety regulations do not require operators to automate their safety-related functions; however, many pipeline operators rely on computers for these needs. Some computer systems may fail in the Year 2000 because the programs, hardware, and data files may misread the digits ''00'' as 1900 rather than 2000.

Until recently, the computer industry was not focused on the change in the millennium and the two extra digits required to show the change to the year 2000. The date fields for most computer programs were designed with six digits: two each for the year, month, and day; ''19'' was implied. In the Year 2000, some computers will record the year ''00'' and will interpret it as the year ''1900.'' Some hardware may also contain components that do not recognize the new millennium. These date calculations may be embedded in controllers that operate pipeline equipment. There is the possibility that a Year 2000 (Y2K) problem could cause this equipment to malfunction. In most cases, operators must evaluate their system-by-system operations to determine if there is a Y2K problem in their hardware or software. Most pipeline operators are aware of the potential for Y2K computer-related problems and have already taken steps to address the issue.

## II. Advisory Bulletin (ADB–98–01 )

*To:* Owners and Operators of Hazardous Liquid and Natural Gas Pipelines

*Subject:* Potential Failure of Computer Systems Controlling Pipeline Operations.

*Purpose:* Inform system owners and operators of the need to evaluate their computer hardware and software for potential problems relating to Year 2000 (Y2K).

*Advisory:* Recent information has identified a computer problem that may affect pipeline operations. Computers may interpret the date ''2000'' as 1900, which could result in the shutdown or interruption of any computer operated system. The Office of Pipeline Safety urges all pipeline owners and operators who have not already done so to address this issue because of the risk that it may interfere with their operations.

The Office Of Pipeline Safety is working with the Oil and Gas Sector Workgroup of the President's Council on Year 2000 Conversion to help assess Y2K readiness among the oil and gas industries and offer assistance by coordinating outreach activities, identifying points of contact within trade associations, and developing a forum for sharing information. Pipeline operators who have not implemented a plan for assessing their Y2K readiness should do so as soon as possible.

Pipeline industry trade associations can offer assistance on this issue. The American Petroleum Institute (API), the Natural Gas Council (NGC), and the Gas Industry Standards Board (GISB) have agreed to serve as umbrella organizations for the oil and gas sector; they will coordinate Y2K information for the industry and workgroup use. The President's Council on Y2K has a web page at http://www.y2k.gov that provides an update on the Council's activities and other useful information.

The industry is encouraged to seek advice from and share information and practical solutions with the three umbrella organizations and the industry trade association representatives on the Oil and Gas Y2K Workgroup (listed below). Contact Roger Little with the Office of Pipeline Safety at (202)-366–4569 or your state pipeline safety organization if you have questions regarding this advisory.

### Umbrella Organizations

American Petroleum Institute, Kendra Martin, Phone: (202) 682–8517, Fax: (202) 962–4730, E-mail: MARTINK@API.ORG.

Natural Gas Council, Skip Horvath, Phone: (202) 216–5920, Fax: (202)

216–0874, E-mail: SKIP.HORVATH@INGAA.ORG
Gas Industry Standards Board, Rae McQuade, Phone: (713) 757–4175, Fax: (713) 757–2491, E-mail: GISB@AOL.COM.

**Industry Trade Associations**

Interstate Natural Gas Association of America, Terry Boss, (202) 216–5930
American Gas Association, Gary Gardner, (703) 841–8515
American Public Gas Association, Bob Cave, (703) 352–3890
Gas Processors Association, Johnny Dreyer, 918–493–7047
Association of Oil Pipe Lines, Michele Joy, Phone: (202) 408–7970
American Petroleum Institute, Kendra Martin, Phone: (202) 682–8517

**State Pipeline Safety Organizations**

National Association of Pipeline Safety Representatives (Call Roger Little at (202) 366–4569 if you need the number of your state pipeline safety representative)
National Association of Regulatory Utility Commissioners (NARUC), Sally Allbright, (202) 898–2200

Issued in Washington, D.C., on August 3, 1998.

**Richard B. Felder,**

*Associate Administrator for Pipeline Safety.*

[FR Doc. 98–21178 Filed 8–6–98; 8:45 am]

BILLING CODE 4910–60–P

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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

**[STB Docket No. MC–F–20929]**

### Laidlaw, Inc., et al.—Control—Dave Transportation Services, et al.; Merger—Allegheny Valley Transit Inc. et al.

**AGENCY:** Surface Transportation Board.

**ACTION:** Notice tentatively approving finance application.

**SUMMARY:** Laidlaw, Inc. (Laidlaw or applicant), has filed an application under 49 U.S.C. 14303 to control 10 motor passenger carriers through direct or indirect stock ownership and to merge 21 motor passenger carriers into Laidlaw Transit, Inc. (Transit), a subsidiary of Laidlaw. Persons wishing to oppose the application must follow the rules at 49 CFR part 1182, subpart B. The Board has tentatively approved the transaction and, if no opposing comments are timely filed, this notice will be the final Board action.

**DATES:** Comments are due by September 21, 1998. Applicants may reply by October 6, 1998. If no comments are received by September 21, 1998, this notice will become effective on that date.

**ADDRESSES:** Send an original and 10 copies of any comments referring to STB Docket No. MC–F–20929 to: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW, Washington, DC 20423–0001. In addition, send one copy of any comments to applicant's representative: Mark J. Andrews, Barnes & Thornburg, Franklin Tower, Suite 500, 1401 Eye Street, NW, Washington, DC 20005.

**FOR FURTHER INFORMATION CONTACT:** Joseph H. Dettmar, (202) 565–1600 [TDD for the hearing impaired: (202) 565–1695.]

**SUPPLEMENTARY INFORMATION:** Laidlaw, a publicly-held Canadian noncarrier, seeks authority to control 10 motor carrier subsidiaries through direct or indirect stock ownership and to merge 21 motor carriers into Transit. Apparently, the transactions have previously occurred, but the required authority had not been obtained from the Board or its predecessor, the Interstate Commerce Commission (ICC). Laidlaw indicates that it is coming forward voluntarily to seek nunc pro tunc authorization for these transactions.

Laidlaw initially contends that the transactions may not be subject to Board jurisdiction, claiming that the transactions will affect regulated passenger service only in form rather than substance. *See Stone Container Corporation—Control Exemption—Southwest Forest Industries Inc.*, Finance Docket No. 30998 (ICC served Apr. 1, 1987). We disagree. Laidlaw's principal business is motor carrier transit, and its acquisition of control and merger of motor carriers is precisely the sort of authority Congress desired to regulate by enacting 49 U.S.C. 14303.

Eight of the motor carriers subsidiaries Laidlaw seeks authority to control are: (1) Dave Transportation Services, Inc. (Dave Transportation) (MC–144040), which is authorized to provide charter and special operations nationwide except in Hawaii; (2) Greyhound Canada Transportation Corp. (Greyhound Canada) (MC–304126), which is authorized to provide nationwide charter and special operations as well as limited regular-route service in Michigan, New York and Washington near U.S.-Canada border crossings;[1] (3) Laidlaw Transit Ltd. (Limited) (MC–102189), which is authorized to provide nationwide charter and special operations as well as limited regular-route service in Michigan near a U.S.-Canada border crossing; (4) Roesch Lines, Inc. (Roesch) (MC–119843), which is authorized to provide nationwide charter and special operations and intrastate operations in California; (5) Safe Ride Services, Inc. (Safe Ride) (MC–246193), which is authorized to provide charter and special operations nationwide except in Alaska and Hawaii; (6) The DAVE Companies Inc. (DAVE) (no federal authority but holds intrastate authority in California and Minnesota);[2] (7)Vancom Transportation—Illinois L.P. (Vancom) (MC–167816), which is authorized to provide charter and special operations nationwide except in Alaska and Hawaii; and (8) Willett Motor Coach Co. (Willett) (MC–16073), which is authorized to provide charter and special operations between the Chicago, IL area and 14 States and the District of Columbia.

Transit, the ninth carrier subsidiary (MC–161299), holds nationwide charter and special operations authority as a result of a transaction authorized in *Laidlaw Transit, Inc. et al.—Control and Merger Exemption—National School Bus Service, Inc, Charterways Transportation Limited, Enterprise Transit Corp., and MCS Interstate, Inc.*, STB Finance Docket No. 33007 (STB served Oct. 25, 1996).

The tenth carrier subsidiary, Gray Line of Vancouver Holdings Limited (Gray Line), proposes to acquire operating authority in MC–94107 held by Pacific Northwest Bus Company, Ltd., authorizing nationwide charter and special operations and regular route service between Seattle-Tacoma International Airport and nearby U.S.-Canada border crossings.

Applicant further seeks approval for the merger into Transit of the following motor carriers: (1) Allegheny Valley Transit, Inc. (MC–172080); (2) Blanchard Charter Service, Inc. (MC–177427); (3) Cheshire Transportation Co. (MC–27518); (4) Hunt's Bus Co., Inc. (MC–212740); (5) Jelco LaCrosse, Inc. (MC–165562); (6) Johnson's Bus, Inc. (MC–153441); (7) Mark IV Charter Lines, Inc. (MC–141743); (8) Mobility, Inc. (MC–182217); (9) Palmer Motor Coach Service, Inc. (MC–106642); (10) Peaslee Transportation, Inc. (MC–167553); (11) Raleigh Transportation Services, Inc. (MC–165041) (Raleigh); (12) Strain's Bus Co., Inc. (MC–148366) ; (13) Timberlane

[1] Apparently, Greyhound Canada is not affiliated with Greyhound Lines, Inc. of Dallas, TX.

[2] Laidlaw maintains that, even though this carrier holds only intrastate authority, control of this entity falls within the preemptive provisions of 49 U.S.C. 14303(f). The provisions of section 14303(f) apply to the extent Laidlaw's control of DAVE is subject to our jurisdiction.

Transportation, Inc. (MC–139100); (14) Town & Country Transportation & Leasing Corp. (MC–167514); (15) Travel Time Bus Lines, Inc. (MC–147777); (16) Tri-State Transit Corp. (MC–134039); (17) United Transportation, Inc. d/b/a Mark IV Coaches (MC–167307); (18) Vancom, Inc. (MC–163845); (19) Vancom-Indiana, Inc. (MC–141600); (20) Vancom Transportation, Inc. (MC–256505); and (21) Van Trans, Inc. (MC–167403).

Laidlaw states that all of the merged carriers primarily provided school transportation services within the United States, except for Raleigh, which primarily provided transit services in the U.S.

Applicant asserts that the combined aggregate gross revenues of its affiliates exceed the $2 million jurisdictional threshold of section 14303(g). Applicant states further that most of its operations are either unregulated, or take place outside the U.S. Allegedly, the regulated U.S. transportation service faces substantial competition from other bus companies and transportation modes.

Laidlaw further indicates that the transactions have produced and will produce substantial benefits, including interest cost savings from restructuring of debt and reduced operating costs from its enhanced volume purchasing power. Applicant claims that the carriers it controls benefit from the lower insurance premiums it has negotiated and from volume discounts for equipment and fuel. Applicant also avers that it improves the efficiency of all acquired carriers, while maintaining responsiveness to local conditions, by providing centralized supporting services, including legal affairs, accounting, purchasing, safety management, equipment maintenance, driver training, human resources and environmental compliance. In addition, applicant states that it facilitates vehicle sharing arrangements between acquired entities, so as to ensure maximum utilization and efficient operation of equipment. According to applicant, employees will benefit from efficient operations and from applicant's policy to honor all collective bargaining agreements of acquired carriers.

Under 49 U.S.C. 14303(b), the Board must approve and authorize transactions it finds consistent with the public interest, taking into account at least: (1) The effect of the transactions on the adequacy of transportation to the public; (2) the total fixed charges that result; and (3) the interest of affected carrier employees.

On the basis of the application, we find that the proposed acquisition of control and merger transactions are consistent with the public interest and should be authorized. If any opposing comments are timely filed, this finding will be deemed vacated and a procedural schedule will be adopted to reconsider the application. If no timely comments are filed by the expiration of the comment period, this decision will take effect automatically and will be the final Board action.[3]

Board decisions and notices are available on our website at: ''WWW.STB.DOT.GOV.''

This decision will not significantly affect the quality of the human environment or the conservation of energy resources.

*It is ordered:*

1. The acquisitions of control and mergers are approved and authorized, subject to the timely filing of opposing comments.

2. If timely opposing comments are filed, the findings made in this decision will be deemed vacated.

3. This decision will be effective September 21, 1998, unless timely opposing comments are filed.

4. A copy of this notice will be served on (1) the U.S. Department of Transportation, Office of Motor Carriers-HIA 30, 400 Virginia Avenue, SW, Suite 600, Washington, DC 20024; and (2) the U.S. Department of Justice, Antitrust Division, 10th Street and Pennsylvania Avenue, NW, Washington, DC 20530.

Decided: July 30, 1998.

By the Board, Chairman Morgan and Vice Chairman Owen.

**Vernon A. Williams,**

*Secretary.*

[FR Doc. 98–21295 Filed 8–6–98; 8:45 am]

BILLING CODE 4915–00–P

[3] Laidlaw seeks *nunc pro tunc* approval of these transactions. While we are granting our tentative approval, the need for retroactive effect has not been demonstrated. Laidlaw evidently recognizes that it should have sought our approval sooner but, under the circumstances, the Board does not intend to pursue enforcement actions against Laidlaw for the previously unauthorized common control.

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

**[STB Finance Docket No. 33407]**

### Dakota, Minnesota & Eastern Railroad Corporation—Construction and Operation of New Rail Facilities in Campbell, Converse, Niobrara, and Weston Counties, Wyoming; Custer, Fall River, Jackson, and Pennington Counties, South Dakota; and Blue Earth, Nicollet, and Steele Counties, Minnesota

**AGENCIES:** Surface Transportation Board; U.S.D.A. Forest Service; U.S.D.I. Bureau of Land Management; U.S. Army Corps of Engineers (collectively, the ''Agencies'').

**ACTION:** Amended Notice of Intent to Prepare an Environmental Impact Statement (EIS); Extension of Request for Comments on the Draft EIS Scope.

**SUMMARY:** On February 20, 1998, the Dakota, Minnesota & Eastern Railroad Corporation (DM&E) filed an application with the Surface Transportation Board (Board) for authority to construct and operate new rail line facilities in east-central Wyoming, southwest South Dakota, and south-central Minnesota. The project involves approximately 280.9 miles of new rail line construction. Additionally, DM&E proposes to rebuild approximately 597.8 miles of existing rail line along its current system to standards acceptable for operation of unit coal trains. On April 28, 1998, DM&E submitted a Special Use Application to the U.S.D.A. Forest Service (USFS) for an easement under the Federal Land Management Policy Act to build new rail lines across portions of the Thunder Basin National Grassland in Wyoming, administered by the Medicine Bow-Routt National Forests, and across portions of the Buffalo Gap National Grassland, administered by the Nebraska National Forest. Because portions of RARE II roadless areas on the Buffalo Gap National Grassland could be affected, there is a possibility that the Nebraska National Forest Land and Resource Management Plan could be amended in the Forest Service Record of Decision. The Northern Great Plains (NGP) Management Plan Revision Environmental Impact Statement (EIS) is being prepared at this time, which could affect the proposed action. Conversely, the proposed action, if approved, could affect the NGP Management Plan and a plan amendment may also be necessary. In April, 1998, DM&E also submitted its application to the U.S.D.I. Bureau of

Land Management (BLM) for a right-of-way across public lands administered by the BLM in Wyoming and South Dakota for the construction of new rail lines. Because the BLM is presently preparing the Newcastle Resource Management Plan EIS, the proposed action could affect this Plan as well or the Plan could have an effect on the proposed action. Additionally, the DM&E will submit an application to the U.S. Army Corps of Engineers (COE), when appropriate, for a permit regarding the proposed dredge and fill activities within the waters of the United States, and any other appropriate permit required by the COE, relative to the proposed construction of new rail lines or reconstruction of existing lines. The U.S. Bureau of Reclamation is presently preparing an EIS on the Cheyenne River/Angostura project, which could be affected by the proposed action or which could have an effect on the proposed action.

Because the construction and operation of the proposed project has the potential to result in significant impacts on the quality of the human environment, the Agencies have determined that the preparation of an EIS is appropriate. The Board's Section of Environmental Analysis (SEA) has previously held agency and public scoping meetings and has accepted written public comments as part of the EIS process. However, the previous Notice of Intent did not include notification to the public that other federal agencies would have decision-making authority. Therefore, the purpose of this Amended Notice of Intent is to notify persons and agencies interested in or affected by the proposed project, of additional USFS, BLM, and COE agency decisions that will be triggered by the project, and to seek additional comments relating to these agency decisions.

**DATES:** *Additional Public Comment Period:* SEA will continue to make available to the public a draft scope of the EIS. The Agencies will also provide an additional thirty-day period for the public to submit written comments on the draft scope. The additional comment period will close 30 days after the publication date of this Amended Notice of Intent in the **Federal Register**, which shall be September 8, 1998.

**Please Note:** If you have previously submitted comments to SEA regarding this project, you are not required to re-submit those comments to be considered by the Agencies. However, you may submit additional comments if you so desire.

**FOR FURTHER INFORMATION CONTACT:** Victoria Rutson, Project Manager, Surface Transportation Board, Powder River Basin Expansion Project, 1–877–404–3044; U.S.D.A. Forest Service, Wendy Schmitzer (307) 358–4690; U.S.D.I. Bureau of Land Management, Bill Carson, (307) 746–4453; U.S. Army Corps of Engineers, Patsy Freeman, (402) 221–3803 or Jerry Folkers (402) 221–4173.

**SUPPLEMENTARY INFORMATION:**

## Background

The proposed rail construction project, referred to as the ''Powder River Basin Expansion Project,'' would involve the construction and operation of approximately 280.9 miles of new rail line by the Dakota, Minnesota & Eastern Railroad Corporation (DM&E), Brookings, South Dakota. The project would provide access for a third rail carrier to serve the region's coal mines and transport coal eastward from the Powder River Basin. New rail construction would include approximately 262.03 miles of rail line extending off DM&E's existing system near Wasta, South Dakota, extending generally southwesterly to Edgemont, South Dakota, and then westerly into Wyoming to connect with existing coal mines located south of Gillette, Wyoming. This portion of the new construction would traverse portions of Custer, Fall River, Jackson, and Pennington Counties, South Dakota and Campbell, Converse, Niobrara, and Weston Counties, Wyoming.

New rail construction would also include an approximate 13.31 mile line segment around Mankato, Minnesota, within Blue Earth and Nicollet Counties. DM&E currently has trackage on both sides of Mankato, accessed by trackage rights on rail line operated by Union Pacific Railroad (UP). The proposed Mankato construction would provide DM&E direct access between its existing lines, avoid operational conflicts with UP, and route rail traffic around the southern side of Mankato, avoiding the downtown area.

The final proposed segment of new rail construction would involve a connection between the existing rail systems of DM&E and I&M Rail Link. The connection would include construction and operation of approximately 2.94 miles of new rail line near Owatonna, Steele County, Minnesota. The connection would allow interchange of rail traffic between the two carriers.

In order to transport coal over the existing system, DM&E proposes to rebuild approximately 597.8 miles of rail line along its existing system. The majority of this, approximately 584.95 miles, would be along DM&E's mainline between Wasta, South Dakota, and Winona, Minnesota. An additional approximate 12.85 miles of existing rail line between Oral and Smithwick, South Dakota, would also be rebuilt. Rail line rebuilding would include rail and tie replacement, additional sidings, signals, grade crossing improvements, and other systems.

DM&E's plans to transport coal as its principal commodity. However, shippers desiring rail access could ship other commodities in addition to coal over DM&E's rail line. Existing shippers along the existing DM&E system would continue to receive rail service.

## Environmental Review Process

The Surface Transportation Board shall be the lead agency, pursuant to 40 CFR 1501.5(c), and shall supervise the preparation of the EIS. The USFS, the BLM, and the COE shall be cooperating agencies, pursuant to 40 CFR 1501.6, and shall adopt the EIS and base their respective decisions on it. In order to assure that the EIS includes all of the information necessary for the decisions by each of the Agencies, they are requesting information and general comments on the scope of environmental issues to be addressed in the EIS for the proposed project. The National Environmental Policy Act (NEPA) process is intended to assist the Agencies and the public in identifying and assessing the potential environmental consequences of a proposed action before a decision on the proposed action is made. The SEA has developed and will continue to make available a draft scope of study for the EIS and provide a period of submission of written comments on it. Following this additional comment period, SEA will issue a final scope of study for the EIS.

Thereafter, SEA will prepare a Draft Environmental Impact Statement (DEIS) for the proposed project. The DEIS will address those environmental issues and concerns identified during the scoping process and detailed in the scope of study. It will also contain a reasonable range of alternatives to the proposed action and recommended environmental mitigation measures. The DEIS will be made available upon its completion for public review and comment. A Final EIS (FEIS) will then be prepared reflecting SEA's further analysis and the comments on the DEIS. In reaching each decision in this case, the Agencies will take into account the DEIS, the FEIS, and all public and agency comments received.

**Filing Comments**

The Agencies encourage broad participation in the EIS process. Interested persons and agencies are invited to participate in the scoping phase through reviewing the scope of study and submitting written comments to the SEA. A signed original of comments should be submitted to: Office of the Secretary, Case Control Unit, STB Finance Docket No. 33407, Surface Transportation Board, 1925 K Street, NW, Washington, D.C. 20423–0001.

To ensure proper handling of your comments, you must mark your submission: Attention: Elaine K. Kaiser, Chief, Section of Environmental Analysis, Environmental Filing.

By following this procedure, your comments will be placed in the formal public record for this case. In addition, SEA will add your name to its mailing list for distribution of the final scope of study for the DEIS and FEIS and the decision documents relating thereto.

By the Board, Elaine K. Kaiser, Chief, Section of Environmental Analysis.

**Vernon A. Williams,**

*Secretary.*

[FR Doc. 98–21215 Filed 8–6–98; 8:45 am]

BILLING CODE 4915–00–P

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

**[STB Finance Docket No. 32760 (Sub–No. 26)][1]**

### Union Pacific Corporation, Union Pacific Railroad Company, and Missouri Pacific Railroad Company—Control and Merger—Southern Pacific Rail Corporation, Southern Pacific Transportation Company, St. Louis Southwestern Railway Company, SPCSL Corp., and The Denver and Rio Grande Western Railroad Company; Houston/Gulf Coast Oversight

**AGENCY:** Surface Transportation Board, DOT.

**ACTION:** Decision No. 6; Notice of acceptance of Requests for additional conditions to the UP/SP merger for the Houston, Texas/Gulf Coast area.

**SUMMARY:** The Board is accepting for consideration requests for additional conditions to the UP/SP merger for the Houston/Gulf Coast region, filed July 8, 1998: (1) jointly by the Texas Mexican Railway Company (Tex Mex), Kansas City Southern Railway Company (KCS), and certain shipper and governmental interests; (2) by the Burlington Northern and Santa Fe Railway Company (BNSF); and (3) by certain individual shippers. Certain requested conditions will be transferred for consideration to the Board's general oversight proceeding for the UP/SP merger that began July 1, 1998, in Finance Docket No. 32760 (Sub-No. 21).

**DATES:** Notices of intent to participate in the Houston/Gulf Coast oversight proceeding are due August 28, 1998. All comments, evidence, and argument opposing the requested new conditions are due September 18, 1998. Rebuttal in support of the requested conditions is due October 16, 1998.

**ADDRESSES:** An original plus 25 copies of all documents, referring both to STB Finance Docket No. 32760 (Sub-No. 26) and, if applicable, the sub-number additionally assigned to a particular request for conditions, must be sent to the Office of the Secretary, Case Control Unit, ATTN: STB Finance Docket No. 32760 (Sub-No. 26), Surface Transportation Board, 1925 K Street, N.W., Washington, DC 20423–0001.

In addition, one copy of all documents in this proceeding must be sent to UP's representative, Arvid E. Roach II, Esq., Covington & Burling, 1201 Pennsylvania Avenue, N.W., P.O. Box 7566, Washington, D.C. 20044, and to Administrative Law Judge Stephen Grossman, Federal Energy Regulatory Commission, 888 First Street, N.E., Suite 11F, Washington, D.C. 20426.

*Electronic Submissions.* In addition to an original and 25 copies of all paper documents filed with the Board, the parties shall also submit, on 3.5 inch IBM-compatible diskettes or compact discs, copies all textual materials, electronic workpapers, data bases and spreadsheets used to develop quantitative evidence. Textual material must be in, or convertible by and into, WordPerfect 7.0. Electronic spreadsheets must be in, or convertible by and into, Lotus 1–2–3 97 Edition, Excel Version 7.0, or Quattro Pro Version 7.0.

The data contained on the diskettes or compact discs submitted to the Board may be submitted under seal (to the extent that the corresponding paper copies are submitted under seal), and materials submitted under seal will be for the exclusive use of Board employees reviewing substantive and/or procedural matters in this proceeding. The flexibility provided by such computer data is necessary for efficient review of these materials by the Board and its staff. The electronic submission requirements set forth in this decision supersede, for the purposes of this proceeding, the otherwise applicable electronic submission requirements set forth in our regulations. *See* 49 CFR 1104.3(a), as amended in *Expedited Procedures for Processing Rail Rate Reasonableness, Exemption and Revocation Proceedings,* STB Ex Parte No. 527, 61 FR 52710, 711 (Oct. 8, 1996), 61 FR 58490, 58491 (Nov. 15, 1996).[2]

**FOR FURTHER INFORMATION CONTACT:** Joseph H. Dettmar, (202) 565–1600. [TDD for the hearing impaired: (202) 565–1695.]

**SUPPLEMENTARY INFORMATION:** By decision served August 12, 1996, the Board approved the common control and merger of the rail carriers controlled by Union Pacific Corporation and those controlled by Southern Pacific Rail Corporation (collectively UP/SP), subject to various conditions.[3] Common control was consummated on September 11, 1996. We imposed a 5-year oversight condition to examine whether the conditions we imposed ''effectively addressed the competitive issues they were intended to address,'' and we retained jurisdiction to impose additional remedial conditions if those already imposed proved insufficient. *UP/SP Merger* at 13. In our initial oversight proceeding, we determined that, while it was still too early to tell, there was no evidence at that time that the merger, with the conditions that the Board had imposed, had produced any adverse competitive consequences.[4] We indicated, however, that our oversight would be ongoing, and that we would continue vigilant monitoring.[5]

[1] This decision embraces the following: (1) Finance Docket No. 32760 (Sub-No. 27), Texas Mexican Railway Company & Kansas City Southern Railway—Construction Exemption—Rail Line Between Rosenberg and Victoria, TX; (2) Finance Docket No. 32760 (Sub-No. 28), Burlington Northern and Santa Fe Railway Company—Terminal Trackage Rights—Texas Mexican Railway Company; (3) Finance Docket No. 32760 (Sub-No. 29), Burlington Northern and Santa Fe Railway Company—Application for Additional Remedial Conditions Regarding Houston/Gulf Coast Area; (4) Finance Docket No. 32760 (Sub-No. 30), Texas Mexican Railway Company, et al.—Request For Adoption of Consensus Plan; (5) Finance Docket No. 32760 (Sub-No. 31), Houston & Gulf Coast Railroad—Application for Trackage Rights and Forced Line Sales; (6) Finance Docket No. 32760 (Sub-No. 32), Capital Metropolitan Transportation Authority— Responsive Application—Interchange Rights.

[2] A copy of each diskette or compact disc submitted to the Board should be provided to any other party upon request.

[3] *Union Pacific Corp.—Control and Merger—Southern Pacific Rail Corp.,* Finance Docket No. 32760 (**UP/SP Merger**), Decision No. 44 (STB served Aug. 12, 1996).

[4] *Union Pacific Corp.—Control and Merger—Southern Pacific Rail Corp.,* Finance Docket No. 32760 (Sub-No. 21), Decision No. 10 (STB served Oct. 27, 1997) (*UP/SP* Oversight).

[5] *Id.* at 2–3.

Last summer, UP/SP experienced serious service difficulties caused by, among other things, severely congested UP/SP lines in and around Houston that, in turn, affected rail service throughout the western United States, and the Board issued a series of decisions under its emergency service order authority under 49 U.S.C. 11123, effective until August 2, 1998, to address those difficulties.[6] In those decisions, we rejected proposals offered by certain shipper, carrier, and governmental interests that would have addressed the emergency by requiring UP/SP to permanently afford access to certain of its lines in and around Houston to other rail carriers, and to divest other lines. We determined that one of the primary reasons for the service crisis was the inadequate infrastructure in the region, and that proposals to transfer line ownership and/or broadly permit other rail carriers access to the merged UP/SP network would likely work not to end the immediate crisis, but exacerbate it. As a result, and mindful that our emergency service order authority under section 11123 is temporary (up to 270 days), we adopted only those measures designed to free up traffic in and around Houston without further aggravating congestion in the area or creating additional service disruptions.[7]

The Board provided, however, that interested persons could present longer-term restructuring proposals of the kind suggested above in the UP/SP merger oversight process.[8] Based on a joint request for such relief filed on February 12, 1998, by Tex Mex/KCS, and one filed March 6, 1998, by the Greater Houston Partnership, the Board, on March 31, 1998, instituted a discrete oversight proceeding to consider requests for additional conditions to the UP/SP merger for the Houston/Gulf Coast region.[9] We stated that we would examine whether there is any relationship between any market power gained by UP/SP through the merger and the failure of service that occurred in the region, and, if so, whether additional remedial conditions would be appropriate. We also provided that we would grant requested conditions that would substantially change UP/SP's existing configuration and operations in the region only upon the type of evidence required for inconsistent applications in merger proceedings. *Houston/Gulf Coast Oversight*, Decision No. 1, at 6.

All interested persons were directed to file their requests for additional conditions, along with all supporting evidence, by June 8, 1998. Pursuant to a joint motion by KCS/Tex Mex and others, we extended that date until July 8, 1998.[10]

## Summary of Requests

As indicated in Decision No. 1, we are confining our consideration in this proceeding to requests for new conditions that would reconfigure the existing UP/SP network in the Houston/Gulf Coast region. Requests for conditions that would affect the UP/SP network outside of this region, or requests for other kinds of conditions more broadly applicable to the merger as a whole, will be considered instead in the ''general'' oversight proceeding, Finance Docket No. 32760 (Sub-No. 21), that began on July 1, 1998.[11] The requests that we will consider in this proceeding are summarized below.

## The ''Consensus Plan'' (Finance Docket No. 32760 (Sub-No. 30))

The ''consensus plan'' has been offered by Tex Mex/KCS, the Chemical Manufacturers Association, the Railroad Commission of Texas, the Society of the Plastics Industry, Inc., and the Texas Chemical Council. These parties ask us to:

(1) Impose permanently provisions of Service Order No. 1518 that:

(a) lifted the restriction on trackage rights that Tex Mex received in the UP/SP merger over UP/SP's Corpus Christi/Robstown—Beaumont, TX line;[12] and

(b) afforded trackage rights to Tex Mex over the UP's ''Algoa route'' between Placedo and Algoa, TX and over the BNSF between Algoa and T&NO Jct.;

(2) Restore ''neutral switching'' in Houston, said to be lost when UP/SP and BNSF dissolved the HBT, that would encompass all of the industries and trackage that were formerly served by the HBT, and all industries and trackage of the PTRA, and, if PTRA is designated as the neutral switching provider, grant it trackage rights over former HBT trackage and the use of appropriate yards.

(3) Expand the neutral switching area to include:

(a) all shippers currently located on the former SP Galveston Subdivision between Harrisburg Jct. and Galveston, including those at Sinco, Pasadena, Deer Park, Strang, LaPorte, the Clinton Branch, the Bayport Loop and the Bayport area, including Barbours Cut and the Navigation Lead; and

(b) all shippers at Galveston located on both the former SP and the former UP routes between Houston and Galveston, and require that the neutral switching company be granted trackage rights between Houston and Galveston over both routes, with rights to serve all industries located along the two lines and access to the former SP and UP yards at Strang and Galveston.

(4) Establish neutral dispatching within the neutral switching area, to be located, managed and administered by the PTRA, and require that all railroads serving Houston be granted terminal trackage rights by the owning carrier over all tracks within the neutral switching and dispatching area, so that the neutral dispatcher could route trains over the most efficient route.

(5) Require UP/SP and BNSF to acknowledge Tex Mex's full voting membership on the PTRA board and to restore the Port of Houston Authority as a full voting member of the PTRA board;

[6] STB Service Order No. 1518, Joint Petition for Service Order (Service Order No. 1518) (STB served Oct. 31 and Dec. 4, 1997, and Feb. 17 and 25, 1998).

[7] Id., Feb. 17, 1998 Decision, at 5–7; Feb. 25, 1998 Decision, at 4–5. We also ordered UP/SP to submit detailed infrastructure plans for the region, and, on May 1, 1998, the carrier outlined its plan to invest $1.4 billion in rail infrastructure in the Houston/Gulf Coast area over the next five years, including more than $600 million in new rail capacity. See Union Pacific's Report on Houston and Gulf Coast Infrastructure, at 1–2, filed May 1, 1998, in Ex Parte No. 573, *Rail Service in the Western United States*, STB Service Order No. 1518, *Joint Petition for Service Order*.

[8] *Id.*, Feb. 17, 1998 Decision, at 8; see also Feb. 25, 1998 Decision, at 4.

[9] The Board instituted this proceeding in Finance Docket No. 32760 (Sub-No. 21), Decision No. 12, published in the **Federal Register** on April 3, 1998 (63 FR 16628). By decision served May 19, 1998, the Board corrected the March 31 decision by designating the docket number as Finance Docket No. 32760 (Sub-No. 26) (*Houston/Gulf Coast Oversight*), rather than (Sub-No. 21), and designating Decision No. 12 in Sub-No. 21 as Decision No. 1 in Sub-No. 26. The annual ''general'' oversight proceeding conducted in the Sub-No. 21 proceeding, which began July 1, 1998 upon the filing by UP/SP and BNSF of their quarterly merger progress reports, will continue as planned. See UP/SP Oversight, Decision No. 10, at 18–19.

[10] Finance Docket No. 32760 (Sub-No. 26), Decision No. 5 (STB served June 1, 1998).

[11] Thus, we will consider in the Sub-No. 21 proceeding, not this proceeding, the request by the Western Coal Traffic League for an accounting condition that would require UP to separately account for all costs and charges arising as a consequence of the inefficiencies caused by the UP/SP merger.

[12] As a condition to our approval of the UP/SP merger, we granted Tex Mex access to Houston area shippers switched by the Port Terminal Railroad Association (PTRA) and the Houston Belt & Terminal Railway Company (HBT) via trackage rights over UP/SP's Corpus Christi/Robstown—Beaumont line, subject to the restriction that all Tex Mex traffic using these trackage rights must have a prior or subsequent movement over Tex Mex'' Laredo-Corpus Christi line. *UP/SP Merger*, Decision No. 44, at 150. In Service Order No. 1518, we suspended that restriction and directed UP to release these shippers from their contracts so that those desiring to do so could route traffic over Tex Mex and BNSF, in lieu of UP/SP.

(6) Require UP/SP to sell to Tex Mex its line between Milepost 0.0 at Rosenberg and Milepost 87.8 at Victoria, TX. Tex Mex would re-construct this line and, when completed, grant UP/SP and BNSF trackage rights between Rosenberg and Victoria to facilitate UP's directional traffic on the Brownsville Subdivision.[13] Grant Tex Mex related trackage rights over the two miles on the south end of this line between Milepost 87.8 and the point of connection at UP/SP's Port LaVaca branch at Victoria;

(7) Require UP to sell or lease an existing yard in Houston (preferably the Booth Yard) to the Tex Mex. Tex Mex would sub-lease to UP a portion of the yard to hold up to 300 empty storage cars until Tex Mex can complete construction of the line between Rosenberg and Victoria and build a storage yard between Rosenberg and El Campo. Upon completion of the new storage yard, Tex Mex would cancel its sub-lease with UP and offer to lease to UP track space at the new storage yard for the same number of empty storage cars and to upgrade Booth Yard by reconstructing the south end of the yard; and

(8) Require UP to allow Tex Mex/KCS to construct a new rail line on UP's right-of-way adjacent to UP's Lafayette Subdivision between Dawes and Langham Road, Beaumont, TX. Upon completion of this new rail line, Tex Mex/KCS would deed it to UP in exchange for a deed to the UP's Beaumont Subdivision between Settegast Jct., Houston, and Langham Road, Beaumont. Tex Mex would dispatch this line from Houston and grant BNSF and UP trackage rights over this line, and would retain trackage rights over the Lafayette Subdivision between Houston and Beaumont.[14]

**BNSF (Finance Docket No. 32760 (Sub-No. 29))**

In this proposal, the Board is asked to:

(1) Grant BNSF permanent bidirectional overhead trackage rights on UP's Caldwell-Flatonia-San Antonio and Caldwell-Flatonia-Placedo lines to give BNSF long-term operational flexibility to avoid congested UP lines between Temple and San Antonio, TX and between Algoa and Corpus Christi, TX;

(2) Grant BNSF trackage rights over both the UP line and the SP line between Harlingen and Brownsville, TX (until UP constructs a connection between the UP and SP lines at Brownsville to complete a rail bypass project) and allow the Brownsville & Rio Grande International Railroad (BRGI) to act as BNSF's agent for such service, so that BNSF may begin effective and competitive trackage rights service to both Brownsville and the Transportacion Ferroviara Mexicana (TFM) connection at Matamoros, and to alleviate problems in the Brownsville area resulting from the incomplete rail bypass project;

(3) Grant BNSF overhead trackage rights on the UP Taylor-Milano line, so that BNSF may avoid congestion on the UP lines between Temple and Taylor, and Taylor and Sealy, and to provide a less circuitous routing;

(4) Order neutral switching supervision on the former SP Baytown and Cedar Bayou Branches and on the former SP Sabine and Chaison Branches serving the Beaumont-Port Arthur, TX area, to correct UP's inadequate local switch service via haulage and reciprocal switch between BNSF and its customers. The neutral switching supervisor would be selected by the parties unless they were unable to agree, in which case the switching supervisor would be selected by an arbitrator;

(5) Order PTRA's operation of the UP Clinton Branch in Houston, in order to eliminate delays caused by UP to BNSF's trains providing service to the Houston Public Elevator;

(6) Grant BNSF overhead trackage rights giving it the option to join the directional operations over any UP line, or lines in corridors where BNSF has trackage rights over one, but not both, lines involved in the UP directional flows, specifically including the Fort Worth-Dallas line (via Arlington), so that BNSF could provide more efficient competitive operations;

(7) Grant BNSF trackage rights on additional UP lines for BNSF to operate over any available clear routes through the terminal, as determined and managed by the Spring Consolidated Dispatching Center (SCDC), including the SP route between West Junction and Tower 26 via Chaney Junction, so that BNSF can avoid congestion in the Houston terminal area;

(8) Order the coordinated dispatching of operations over the UP and SP routes between Houston and Longview, TX, and Houston and Shreveport, LA, by the SCDC, to alleviate congestion in the corridor and to improve coordination of BNSF and UP trains arriving and departing the Houston area on UP lines north of Houston; and

(9) Grant overhead trackage rights on UP's San Antonio-Laredo line to avoid the adverse impact of (a) unnecessary routing of traffic through Houston, UP's south Texas congestion and service problems, and UP's alleged favoritism of its own business, and (b) the unforeseen changes in market structuring, including the influence of KCS on Tex Mex's ability to work with BNSF at Laredo, and the unexpected lack of direct competition in the privatized Mexican rail system.

**BNSF (Finance Docket No. 32760 (Sub-No. 28))**

In a related proposal, BNSF has filed an application asking the Board to grant it terminal trackage rights that would permit it:

(a) to use a segment of Tex Mex track between MP 0.00 at the International Bridge at Laredo, TX and the vicinity of MP 0.50, including over the International Bridge at Laredo; and

(b) equal access to use the International Bridge for interchange purposes through establishment of defined operational windows for BNSF's use.

The Board will accept and consider the Consensus Plan and BNSF proposals.

**Shipper-Requested Conditions**

Various Houston area and other Texas shippers have filed requests, with supporting evidence, for new conditions to the merger that would have discrete application to them. Shippers making these requests are E.I. DuPont de Nemours and Company,[15] Dow Chemical Company,[16] Formosa Plastics

[13] We note that, in its initial proposal, filed March 30, 1998 (Sub-No. 27), Tex Mex requested an exemption from 49 U.S.C. 10901 to reconstruct the Rosenberg-Victoria line. In the Consensus Plan, the parties now believe that construction authority under section 10901, or an exemption from having to obtain our authorization, is not required, based on UP's representations that it never exercised its abandonment authority over any part of the line. Therefore, as a line still within the Board's jurisdiction, Tex Mex asserts that it requires only a Board order requiring UP to sell it the line.

[14] Shell Oil Company endorses most of the recommendations of the consensus group. However, it does not support compelling UP to sell to Tex Mex the Rosenberg-Victoria line or the Booth Yard, nor forcing the carrier to allow Tex Mex/KCS to construct a new rail line adjacent to the UP Lafayette Subdivision in Beaumont. Instead, Shell asks us to facilitate these changes by asking the parties to agree to them, with arbitration in the event no agreement can be reached.

[15] DuPont asks that we impose conditions that would remove the prohibition against PTRA serving DuPont's LaPorte, TX, plant; require UP and PTRA to work out a service plan for the LaPorte plant; and require UP to restore DuPont's unrestricted reciprocal switching options. DuPont more generally requests that we remove the restriction against reciprocal switching for intrastate transportation, and authorize Tex Mex to serve Houston customers served by HBT's successors, PTRA, and all other industries open to reciprocal switching on the UP.

[16] Dow requests a condition that would grant permanent haulage rights to BNSF on the Freeport Industrial Spur between the UP mainline at Angleton, TX, and Dow's chemicals and plastics production complex at Freeport, TX, with (a) the

Corporation, U.S.A.,[17] and Central Power & Light Company.[18] The Greater Houston Partnership (GHP) also adopted a resolution with recommendations to promote competitive rail service in Houston similar to many of the requested conditions made by BNSF and the Consensus Plan, particularly that for neutral switching.[19]

The Board will accept and consider all of these proposals. We also note that the National Industrial Transportation League (NITL), while not making any specific requests, argues that there is a clear need for additional conditions to the merger in the Houston/Gulf Coast region, and asks that the Board particularly consider proposals that would establish neutral switching in Houston, make permanent the emergency service order authority granted to Tex Mex, provide increased overhead trackage rights in the region, and encourage increased infrastructure.

**Capital Metropolitan Transportation Authority (Finance Docket No. 32760 (Sub-No. 32)**

Capital Metro, a regional transit authority that owns a 162-mile line that traverses Austin, TX between Giddings and Llano, TX, requests, with supporting evidence, a condition granting BNSF trackage rights over 4.4 miles of UP/SP tracks between Round Rock and McNeil, TX, and interchange rights at McNeil with Capital Metro's operator, the Central of Tennessee Railway & Navigation Company, Inc. d/b/a the Longhorn Railway Company (Longhorn). The Board will accept and consider this request. In the UP/SP merger, the Board determined that Capital Metro could interchange freight traffic with BNSF at Giddings, at the east end of the line, or Elgin, toward the center of the line, but it denied Capital Metro's requested condition that BNSF be permitted to interchange with Longhorn at McNeil, the line's westernmost interchange point. *UP/SP Merger*, Decision No. 44, at 182. Capital Metro is seeking the ''McNeil'' condition anew, because BNSF no longer runs through trains through Elgin, the interchange point Capital Metro selected, due to UP/SP congestion south of Elgin, and Giddings is only a theoretical interchange.

**Kenneth B. Cotton (Finance Docket No. 32760 (Sub-No. 31))**

On August 3, 1998, Kenneth B. Cotton, a small businessman on behalf of the Houston and Gulf Coast Railroad (H&GC), asks the Board to accept a late-filed application for new conditions. Mr. Cotton requests the following:

(1) Grant H&GC trackage rights on UP between Wharton, TX and Rosenberg, TX, and allow interchange with BNSF at Rosenberg;

(2) If the Wharton-Rosenberg and Wharton-Victoria segments of UP's Rosenberg-Victoria line are sold to Tex Mex, grant H&GC trackage rights from Victoria-Rosenberg over Tex Mex, with switching rights between Victoria and Rosenberg, and with interchange rights at Victoria with Tex Mex, BNSF, and UP;

(3) Grant H&GC trackage rights on UP between Rosenberg and Houston via West Junction, with access to PTRA, New South, Englewood, and Settegast Yards;

(4) Grant H&GC trackage rights on UP between Bay City, TX, and Algoa, TX, with interchange rights with BNSF at Algoa;

(5) Require UP to sell H&GC track from Congress Yard in Houston to M.P. 233.0 in Galveston, TX, including rights over the lift bridge at Galveston, and to interchange with H&GC all Galveston-bound grain trains at Congress Yard or Rosenberg. H&GC also requests access to the Texas City Terminal Railway at Texas City, TX; and

(6) Require UP to sell the former SP Galveston Subdivision line between M.P. 38.8 to M.P. 55.6, with trackage rights over the lift bridge at Galveston.

Although Mr. Cotton filed no evidence in support of H&GC's requests, he has asserted that a grant of the conditions he has requested would benefit freight shippers and competition in the Houston area. We will accept and consider his late-filed application.[20]

Finally, we note that several persons have filed letters supporting one or more of the requested conditions summarized above; others have submitted letters, without supporting evidence, that request other conditions. These letters will be placed in the docket, but any requested conditions made in them different than those outlined above will not be considered.

As set forth previously in Decision Nos. 1 and 5, notices of intent to participate are due August 28, 1998. All comments, evidence, and argument opposing the requests for new conditions to the merger for the Houston/Gulf Coast region are due September 18, 1998, along with comments by the U.S. Department of Justice and the U.S. Department of Transportation. Rebuttal evidence and argument in support of requests for new conditions are due October 16, 1998.

All discovery matters in this proceeding have been assigned to Administrative Law Judge Stephen Grossman, Federal Energy Regulatory Commission, 888 First Street, N.E., Suite 11F, Washington, DC 20426 [202–219–2538, FAX (202) 219–3289].[21]

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

Decided: August 3, 1998.

By the Board, Chairman Morgan and Vice Chairman Morgan.

**Vernon A. Williams,**

*Secretary.*

**Procedural Schedule**

August 28, 1998—Notice of intent to participate in proceeding due.

September 18, 1998—All comments, evidence, and argument opposing requests for new remedial conditions to the merger due. Comments by U.S. Department of Justice and U.S. Department of Transportation due.

October 16, 1998—Rebuttal evidence and argument in support of requests for new conditions due.

right for Dow and/or BNSF to construct a storage and gathering yard to interconnect with the UP line near Angleton, or another point to be determined later, and (b) the requirement that UP efficiently interchange Dow's traffic with BNSF at that interconnection, at haulage rates and terms to be established pursuant to the UP/BNSF Settlement Agreement under the UP/SP Merger. Dow also requests a condition granting BNSF authority to build out from Freeport to an interconnection with the UP mainline between Chocolate Bayou and Angleton, TX, at an undetermined point.

[17] Formosa requests a condition that would permit BNSF, which has trackage rights on UP's line between Algoa and Corpus Christi, TX, to switch with Formosa and serve the shipper's Point Comfort plant.

[18] Central Power & Light requests a condition that would permit BNSF to use 16 miles of UP track beginning in Victoria, TX, to deliver unit coal trains to its power plant at Coleto Creek, TX.

[19] GHP specifically asks the Board to: (1) consider making permanent the temporary trackage rights already granted railroads serving the Houston-Gulf Coast region; (2) make the Port of Houston and all long haul railroads serving Houston full and equal voting members of the PTRA board; (3) provide a mechanism for all railroads serving Houston to buy trackage rights over trackage owned by the Port of Houston and operated by PTRA, trackage formerly owned by the HBT prior to its dissolution, and additional trackage; (4) order the reconstitution of PTRA as a neutral dispatching, switching and car movement operator, to encompass all of the trackage described in (3); (5) encourage UP/SP to agree with other carriers to sell or lease abandoned and underutilized rights of way and switching yards, and mediate negotiations for sales and leases; and (6) order PTRA to develop a regional master plan of added facilities and operations needed to provide system capacity in excess of demand for the foreseeable future.

[20] In contrast, we will not accept or consider requested conditions by the Texas Electric Rail Lines, which does not appear to offer freight service, for the forced sale, or forced rehabilitation and reactivation, of several vaguely and inadequately described UP/SP lines in Texas.

[21] *Houston/Gulf Coast Oversight*, Finance Docket No. 32760 (Sub-No. 26), Decision No. 2 (STB served May 19, 1998).

The necessity of briefing, oral argument, and voting conference will be determined after the Board's review of the pleadings.

[FR Doc. 98–21216 Filed 8–6–98; 8:45 am]

BILLING CODE 4915–00–P

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

**[STB Docket No. AB–31 (Sub–No. 32X)]**

### Grand Trunk Western Railroad Incorporated—Abandonment Exemption—in Oakland County, MI

On July 20, 1998, Grand Trunk Western Railroad Incorporated (GTW) filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to abandon a 3.1-mile line of railroad known as the Jackson Spur extending between milepost 35.3 at Pontiac and milepost 38.4 at Sylvan Lake, in Oakland County, MI. The line traverses U.S. Postal Service Zip Codes 48341 and 48320 and includes no stations.

The line does not contain federally granted rights-of-way. Any documentation in GTW's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by November 6, 1998.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each offer must be accompanied by a $1,000 filing fee. See 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than August 27, 1998. Each trail use request must be accompanied by a $150 filing fee. See 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket No. AB–31 (Sub-No. 32X) and must be sent to: (1) Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001, and (2) Robert P. vom Eigen, Hopkins & Sutter, 888 Sixteenth Street, N.W., Washington, DC 20006. Replies to the GTW petition are due on or before August 27, 1998.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 565–1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 565–1545. [TDD for the hearing impaired is available at (202) 565–1695.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: August 3, 1998.

By the Board, David M. Konschnik, Director, Office of Proceedings.

**Vernon A. Williams,**

*Secretary.*

[FR Doc. 98–21217 Filed 8–6–98; 8:45 am]

BILLING CODE 4915–00–P

## DEPARTMENT OF THE TREASURY

### Proposed Collection; Comment Request

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, 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)). Currently, the Departmental Offices within the Department of the Treasury is soliciting comments concerning the OMB Control Number 1505–0080, Post-Contract Award Information.

**DATES:** Written comments should be received on or before October 6, 1998 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Department of the Treasury, Departmental Offices, Angelie Jackson, Office of Procurement, 1500 Pennsylvania Avenue, NW, c/o 1310 G Street, NW, Suite 4W101, Washington, DC 20220, (202) 622–0245; angelie.jackson@treas.sprint.com.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the forms(s) and instructions should be directed to Department of the Treasury, Departmental Offices, Angelie Jackson, Office of Procurement, 1500 Pennsylvania Avenue, NW, c/o 1310 G Street, NW, Suite 4W101, Washington, DC 20220, (202) 622–0245; angelie.jackson@treas.sprint.com.

**SUPPLEMENTARY INFORMATION:**

*Title:* Post-Award Contract Information.

*OMB Number:* 1505–0080.

*Abstract:* This notice provides a request to continue including the designated OMB Control Number on information requested from contractors. The information requested is specific to each contract and is required for Treasury to evaluate properly the progress made and/or management controls used by contractors providing supplies or services to the Government and to determine contractors' compliance with the contracts, in order to protect the Government's interest.

*Current Actions:* There are no changes being made to the notice at this time.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Businesses and individuals contracting with the Department of the Treasury.

*Estimated Number of Respondents:* 5,565.

*Estimated Time Per Respondent:* 14 hours, 46 minutes.

*Estimated Total Annual Burden Hours:* 82,218.

### Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of pubic record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to

minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technlogy; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: July 30, 1998.

**Angelie Jackson,**

*Procurement Analyst.*

[FR Doc. 98–21143 Filed 8–6–98; 8:45 am]

BILLING CODE 4810–31–M

## DEPARTMENT OF THE TREASURY

### Proposed Collection; Comment Request

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, 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)). Currently, the Department Offices within the Department of the Treasury is soliciting comments concerning the OMB Control Number 1505–0081, Solicitation of Proposal Information for Award of Public Contracts.

**DATES:** Written comments should be received on or before October 6, 1998 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Department of the Treasury, Departmental Offices, Angelie Jackson, Office of Procurement, 1500 Pennsylvania Avenue, NW, c/o 1310 G Street, NW, Suite 4W101, Washington, DC 20220, (202) 622–0245; *angelie.jackson@treas.sprint.com*.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form(s) and instructions should be directed to Department of the Treasury, Departmental Offices, Angelie Jackson, Office of Procurement, 1500 Pennsylvania Avenue, NW, c/o 1310 G Street, NW, Suite 4W101, Washington, DC 20220 (202) 622–0245; angelie.jackson@treas.sprint.com.

**SUPPLEMENTARY INFORMATION:**

*Title:* Solicitation of Proposal Information for Award of Public Contracts.

*OMB Number:* 1505–0081.

*Abstract:* This notice provides a request to continue including the designated OMB Control Number on information requested from prospective contractors. The information requested is specific to each acquisition solicitation, and is required for Treasury to evaluate properly the capabilities and experience of potential contractors who desire to provide the supplies and/or services to be acquired. Evaluation will be used to determine which proposals most benefit the Government.

*Current Actions:* There are no changes being made to the notice at this time.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Businesses and individuals seeking contracting opportunities with the Department of the Treasury.

*Estimated Number of Respondents:* 29,183.

*Estimated Time Per Respondent:* 31 hours, 2 minutes.

*Estimated Total Annual Burden Hours:* 905,743.

### Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs of operation, maintenance, and purchase of services to provide information.

Dated: July 30, 1998.

**Angelie Jackson,**

*Procurement Analyst.*

[FR Doc. 98–21144 Filed 8–6–98; 8:45 am]

BILLING CODE 4810–31–M

## DEPARTMENT OF THE TREASURY

### Proposed Collection; Comment Request

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, 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)). Currently, the Departmental Offices within the Department of the Treasury is soliciting comments concerning the OMB Control Number 1505–0107, Regulation on Agency Protests.

**DATES:** Written comments should be received on or before September 25, 1998 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Department of the Treasury, Departmental Offices, Angelie Jackson, Office of Procurement, 1500 Pennsylvania Avenue, NW, c/o 1310 G Street, NW, Suite 4W101, Washington, DC 20220, (202) 622–0245; *angelie.jackson@treas,sprint.com*.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form(s) and instructions should be directed to Department of the Treasury, Departmental Offices, Angelie Jackson, Office of Procurement, 1500 Pennsylvania Avenue, NW, c/o 1310 G Street, NW, Suite 4W101, Washington, DC 20220, (202) 622–0245; angelie.jackson@treas,sprint.com.

**SUPPLEMENTARY INFORMATION:**

*Title:* Regulation on Protests.

*OMB Number:* 1505–0107.

*Abstract:* This notice provides a request to continue including the designated OMB Control Number on information requested from contractors. The information is requested from contractors so that the Government will be able to evaluate protests effectively and provide prompt resolution of issues in dispute when contractors file agency level protests.

*Current Actions:* There are no changes being made to the notice at this time.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Businesses and individuals seeking and who are currently contracting with the Department of the Treasury.

*Estimated Number of Respondents:* 17.

*Estimated Time Per Respondent:* 2 hours.

*Estimated Total Annual Burden Hours:* 34.

### Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of

information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: July 30, 1998.

**Angelie Jackson,**

*Procurement Analyst.*

[FR Doc. 98–21145 Filed 8–6–98; 8:45 am]

BILLING CODE 4810–31–M

# Corrections

**Federal Register**

Vol. 63, No. 152

Friday, August 7, 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 DEFENSE

### Department of the Army

### Proposed Collection; Comment Request

*Correction*

In notice document 98–19919, beginning on page 40106, in the issue of Monday, July 27, 1998, make the following correction:

On page 40107, in the first column, in the tenth line, ''129,265'' should read ''19,265''.

BILLING CODE 1505-01-D

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 81

**[FRL-6126-8]**

### Identification of Additional Ozone Areas Attaining the 1-Hour Standard and to Which the 1-Hour Standard is No Longer Applicable

*Correction*

In rule document 98–19388, beginning on page 39432, in the issue of Wednesday, July 22, 1998, make the following correction:

**§ 81.318 [Corrected]**

On page 39436, in the Kentucky–Ozone table, in the second column titled ''Designation'', under Type, ''1 hr.std.N.A.$^{2}$2'' should read ''1 hr.std.N.A.$^{2}$''.

BILLING CODE 1505-01-D

federal register

Friday
August 7, 1998

## Part II

# Department of Housing and Urban Development

**Office of the Assistant Secretary for Community Planning and Development**
**Federal Property Suitable as Facilities To Assist the Homeless; Notice**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–4341–N–21]**

## Federal Property Suitable as Facilities To Assist the Homeless

**AGENCY:** Office of the Assistant Secretary for Community Planning and Development, HUD.

**ACTION:** Notice.

**SUMMARY:** This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

**FOR FURTHER INFORMATION CONTACT:** Mark Johnston, room 7256, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410; telephone (202) 708–1226; TTY number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call toll-free Title V information line at 1–800–927–7588.

**SUPPLEMENTARY INFORMATION:** In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.)

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Brian Rooney, Division of Property Management, Program Support Center, HHS, room 5B–41, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Mark Johnston at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: ARMY: Mr. Jeff Holste, CECPW–FP, U.S. Army Center for Public Works, 7701 Telegraph Road, Alexandria, VA 22315; (703) 426–6318; (These are not toll-free numbers).

Dated: July 31, 1998.

**Fred Karnas, Jr.,**

*Deputy Assistant Secretary for Economic Development.*

**TITLE V, FEDERAL SURPLUS PROPERTY PROGRAM FEDERAL REGISTER REPORT FOR 08/07/98**

**Suitable/Available Properties**

*Buildings (by State)*

Alabama

Bldg. 3704, Fort Rucker
Ft. Rucker Co: Dale AL 36362–5138
Landholding Agency: Army
Property Number: 219340185
Status: Unutilized
Comment: 5310 sq. ft., 2-story wood, needs rehab, most recent use—barracks, off-site use only

Bldg. 3708, Fort Rucker
Ft. Rucker Co: Dale AL 36362–5138
Landholding Agency: Army
Property Number: 219340189
Status: Unutilized
Comment: 5310 sq. ft., 2-story wood, needs rehab, presence of asbestos, most recent use—barracks, off-site use only

Bldg. 60101
Shell Army Heliport
Ft. Rucker Co: Dale AL 36362–5000
Landholding Agency: Army
Property Number: 219520152
Status: Unutilized
Comment: 6082 sq. ft., 1-story, most recent use—airfield fire station, off-site use only

Bldg. 60103
Shell Army Heliport
Ft. Rucker Co: Dale AL 36362–5000
Landholding Agency: Army
Property Number: 219520154
Status: Unutilized
Comment: 12516 sq. ft., 2-story, most recent use—admin., off-site use only

Bldg. 60110
Shell Army Heliport
Ft. Rucker Co: Dale AL 36362–5000
Landholding Agency: Army
Property Number: 219520155
Status: Unutilized
Comment: 8319 sq. ft., 1-story, most recent use—admin., off-site use only

Bldg. 60113
Shell Army Heliport
Ft. Rucker Co: Dale AL 36362–5000
Landholding Agency: Army
Property Number: 219520156
Status: Unutilized
Comment: 4000 sq. ft., 1-story, most recent use—admin., off-site use only

Bldgs. 2802, 2805
Ft. Rucker Co: Dale AL 36362–
Landholding Agency: Army
Property Number: 219620662
Status: Unutilized
Comment: #2802=13,082 sq. ft., #2805=13,082 sq. ft., most recent use—admin., needs repair, off-site use only

**Alaska**

Bldg. 1168
Fort Wainwright
Ft. Wainwright Co: Fairbanks AK 99703–
Landholding Agency: Army

Property Number: 219610636
Status: Underutilized
Comment: 6455 sq. ft., concrete, presence of asbestos, most recent use—warehouse

Bldg. 639, Fort Richardson
Ft. Richardson AK 99505–6500
Landholding Agency: Army
Property Number: 219720152
Status: Unutilized
Comment: 9246 sq. ft., concrete, most recent use—auditorium, poor condition, presence of asbestos/lead paint, off-site use only

Bldg. 303
Fort Richardson
Anchorage AK 99505–6500
Landholding Agency: Army
Property Number: 219740272
Status: Excess
Comment: 13,056 sq. ft., presence of asbestos/lead paint, most recent use—family housing, off-site use only

Bldg. 304
Fort Richardson
Anchorage AK 99505–6500
Landholding Agency: Army
Property Number: 219740273
Status: Excess
Comment: 13,506 sq. ft., presence of asbestos/lead paint, most recent use—family housing, off-site use only

Bldgs. 312, 313
Fort Richardson
Anchorage AK 99505–6500
Landholding Agency: Army
Property Number: 219740275
Status: Excess
Comment: 13,506 sq. ft., presence of asbestos/lead paint, most recent use—family housing, off-site use only

Bldgs. 420, 422, 426, 430
Fort Richardson
Anchorage AK 99505–6500
Landholding Agency: Army
Property Number: 219740276
Status: Excess
Comment: 13,056 sq. ft., presence of asbestos/lead paint, most recent use—family housing, off-site use only

Bldg. 660
Fort Richardson
Anchorage AK 99505–6500
Landholding Agency: Army
Property Number: 219740277
Status: Excess
Comment: 21,124 sq. ft., presence of asbestos/lead paint, most recent use—barracks, off-site use only

Bldg. 670
Fort Richardson
Anchorage AK 99505–6500
Landholding Agency: Army
Property Number: 219740278
Status: Excess
Comment: 24,763 sq. ft., presence of asbestos/lead paint, most recent use—barracks, off-site use only

Bldg. 1101
Fort Richardson
Anchorage AK 99505–6500
Landholding Agency: Army
Property Number: 219740279
Status: Excess
Comment: 16,702 sq. ft., presence of asbestos/lead paint, most recent use—barracks, off-site use only

Bldg. 1102
Fort Richardson
Anchorage AK 99505–6500
Landholding Agency: Army
Property Number: 219740280
Status: Excess
Comment: 16,327 sq. ft., presence of asbestos/lead paint, most recent use—barracks, off-site use only

Bldg. 220
Fort Richardson
Ft. Richardson AK 99505–6500
Landholding Agency: Army
Property Number: 219810244
Status: Excess
Comment: 13,056 sq. ft., presence of asbestos/lead paint, most recent use—housing, off-site use only

Bldg. 226
Fort Richardson
Ft. Richardson AK 99505–6500
Landholding Agency: Army
Property Number: 219810245
Status: Excess
Comment: 13,056 sq. ft., presence of asbestos/lead paint, most recent use—housing, off-site use only

Bldg. 260
Fort Richardson
Ft. Richardson AK 99505–6500
Landholding Agency: Army
Property Number: 219810246
Status: Excess
Comment: 13,056 sq. ft., presence of asbestos/lead paint, most recent use—housing, off-site use only

Bldg. 267
Fort Richardson
Ft. Richardson AK 99505–6500
Landholding Agency: Army
Property Number: 219810247
Status: Excess
Comment: 13,056 sq. ft., presence of asbestos/lead paint, most recent use—housing, off-site use only

Bldg. 271
Fort Richardson
Ft. richardson ak 99505–6500
Landholding Agency: Army
Property Number: 219810248
Status: Excess
Comment: 13,056 sq. ft., presence of asbestos/lead paint, most recent use—housing, off-site use only

Bldg. 280
Fort Richardson
Ft. Richardson AK 99505–6500
Landholding Agency: Army
Property Number: 219810249
Status: Excess
Comment: 13,056 sq. ft., presence of asbestos/lead paint, most recent use—housing, off-site use only

Bldg. 283
Fort Richardson
Ft. Richardson AK 99505–6500
Landholding Agency: Army
Property Number: 219810250
Status: Excess
Comment: 13,056 sq. ft., presence of asbestos/lead paint, most recent use—housing, off-site use only

Bldg. 286
Fort Richardson
Ft. Richardson AK 99505–6500
Landholding Agency: Army
Property Number: 219810251
Status: Excess
Comment: 13,056 sq. ft., presence of asbestos/lead paint, most recent use—housing, off-site use only

Bldg. 635
Fort Richardson
Ft. Richardson AK 99505–6500
Landholding Agency: Army
Property Number: 219810252
Status: Excess
Comment: 10,835 sq. ft., most recent use—px/snack bar, off-site use only

Bldg. 760
Fort Richardson
Ft. Richardson AK 99505–6500
Landholding Agency: Army
Property Number: 219810253
Status: Excess
Comment: 24,600 sq. ft., most recent use—veh. maint., off-site use only

Arizona

Bldg. 30012, Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219310298
Status: Excess
Comment: 237 sq. ft., 1-story block, most recent use—storage

Bldg. 30126
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219410252
Status: Unutilized
Comment: 9324 sq. ft., 1 story; wood; most recent use—maintenance; off-site use only

Bldg. S–306
Yuma Proving Ground
Yuma Co: Yuma/La Paz AZ 85365–9104
Property Number: 219420346
Status: Unutilized
Comment: 4103 sq. ft., 2-story, needs major rehab, scheduled to be vacated on or about 2/95

Bldg. 503, Yuma Proving Ground
Yuma Co: Yuma AZ 85365–9104
Landholding Agency: Army
Property Number: 219520073
Status: Underutilized
Comment: 3789 sq. ft., 2-story, major structural changes required to meet floor loading & fire code requirements, presence of asbestos

Bldgs. 13548, 72918
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219620663
Status: Unutilized
Comment: #13548=2048 sq. ft., most recent use—maint. shop, #72918=2822 sq. ft., most recent use—storage, possible asbestos/lead base paint, off-site use only

20 Bldgs.
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Location: 12585, 13550, 14442, 15540, 15547, 15554–15556, 16401, 22215, 30108, 30109, 30122, 30124, 30133, 84015, 84016, 84018, 87849, 91276
Landholding Agency: Army

Property Number: 219810258
Status: Excess
Comment: various sq. ft., off-site use only

13 Bldgs.
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Location: 15335, 15339, 15372, 15553, 30023, 30026, 30027, 30103, 30128, 66050, 66052, 66053, 90310
Landholding Agency: Army
Property Number: 219810259
Status: Excess
Comment: various sq. ft., wood, off-site use only

4 Bldgs.
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Location: 14444, 22418, 30110, 30138
Landholding Agency: Army
Property Number: 219810260
Status: Excess
Comment: various sq. ft., block, off-site use only

11 Bldgs.
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Location: 41329, 67225, 67231, 68217, 74903, 74910, 81105, 84009, 85006, 85011, 85024
Landholding Agency: Army
Property Number: 219820135
Status: Unutilized
Comment: various sq. ft., presence of asbestos/lead paint, most recent use—admin., off-site use only

Bldg. 84013
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219820136
Status: Unutilized
Comment: 2428 sq. ft., presence of asbestos/lead paint, most recent use—classroom, off-site use only

8 Bldgs.
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Location: 14440, 14462, 66160, 67218, 67222, 67361, 68350, 73911
Landholding Agency: Army
Property Number: 219820137
Status: Unutilized
Comment: various sq. ft., presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldgs. 72909, 74902
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219820138
Status: Unutilized
Comment: various sq. ft., presence of asbestos/lead paint, most recent use—veh. maint., off-site use only

4 Bldgs.
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Location: 67227, 67229, 68312, 68321
Landholding Agency: Army
Property Number: 219820139
Status: Unutilized
Comment: various sq. ft., presence of asbestos/lead paint, most recent use—recreational, off-site use only

4 Bldgs.
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Location: 66056, 84020, 84021, 85003
Landholding Agency: Army
Property Number: 219820140
Status: Unutilized
Comment: various sq. ft., presence of asbestos/lead paint, most recent use—barracks, off-site use only

4 Bldgs.
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Location: 67215, 67223, 67224, 73903
Landholding Agency: Army
Property Number: 219820142
Status: Unutilized
Comment: various sq. ft., presence of asbestos/lead paint, most recent use—office/veh. maint., off-site use only

Bldg. 67362
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 219820143
Status: Unutilized
Comment: 6139 sq. ft., presence of asbestos/lead paint, most recent use—warehouse, off-site use only

California

Bldg. 4282
Presidio of Monterey Annex
Seaside Co: Monterey CA 93944–
Landholding Agency: Army
Property Number: 219810378
Status: Unutilized
Comment: 2283 sq. ft., presence of asbestos/lead paint, most recent use—office

Bldg. 4461
Presidio of Monterey Annex
Seaside Co: Monterey CA 93944–
Landholding Agency: Army
Property Number: 219810379
Status: Unutilized
Comment: 992 sq. ft., presence of asbestos/lead paint, most recent use—storage

Colorado

Bldg. T–222
Fort Carson
Ft. Carson Co: El Paso CO 80913–5023
Landholding Agency: Army
Property Number: 219630126
Status: Unutilized
Comment: 2750 sq. ft., poor condition, possible asbestos/lead based paint, most recent use—storage, off-site use only

Bldg. P–1008
Fort Carson
Ft. Carson Co: El Paso CO 80913–5023
Landholding Agency: Army
Property Number: 219630127
Status: Unutilized
Comment: 3362 sq. ft., fair condition, possible asbestos/lead based paint, most recent use—service outlet, off-site use only

Bldg. T–1827
Fort Carson
Ft. Carson Co: El Paso CO 80913–5023
Landholding Agency: Army
Property Number: 219630132
Status: Unutilized
Comment: 2488 sq. ft., poor condition, possible asbestos, most recent use—service outlet, off-site use only

Bldg. T–2438
Fort Carson
Ft. Carson Co: El Paso CO 80913–5023
Landholding Agency: Army
Property Number: 219630133
Status: Unutilized
Comment: 4020 sq. ft., fair condition, most recent use—instruction bldg., off-site use only

Bldg. T–6043
Fort Carson
Ft. Carson Co: El Paso CO 80913–5023
Landholding Agency: Army
Property Number: 219630136
Status: Unutilized
Comment: 10225 sq. ft., poor condition, possible asbestos, most recent use—storage, off-site use only

Bldg. T–6052
Fort Carson
Ft. Carson Co: El Paso CO 80913–5023
Landholding Agency: Army
Property Number: 219630137
Status: Unutilized
Comment: 4458 sq. ft., poor condition, possible asbestos, most recent use—maintenance shop, off-site use only

Bldg. T–6089
Fort Carson
Ft. Carson Co: El Paso CO 80913–5023
Landholding Agency: Army
Property Number: 219630139
Status: Unutilized
Comment: 3150 sq. ft., poor condition, possible asbestos, most recent use—service outlet, off-site use only

Bldg. S–6226
Fort Carson
Ft. Carson Co: El Paso CO 80913–5023
Landholding Agency: Army
Property Number: 219630141
Status: Unutilized
Comment: 13154 sq. ft., fair condition, possible asbestos/lead based paint, most recent use—admin., off-site use only

Bldg. S–6230
Fort Carson
Ft. Carson Co: El Paso CO 80913–5023
Landholding Agency: Army
Property Number: 219630143
Status: Unutilized
Comment: 13154 sq. ft., fair condition, possible asbestos/lead based paint, most recent use—admin., off-site use only

Bldg. S–6235
Fort Carson
Ft. Carson Co: El Paso CO 80913–5023
Landholding Agency: Army
Property Number: 219630144
Status: Unutilized
Comment: 10038 sq. ft., poor condition, possible asbestos/lead based paint, most recent use—admin., off-site use only

Bldg. S–6240
Fort Carson
Ft. Carson Co: El Paso CO 80913–5023
Landholding Agency: Army
Property Number: 219630145
Status: Unutilized
Comment: 9985 sq. ft., poor condition, possible asbestos/lead based paint, most recent use—admin., off-site use only

Bldg. S–6241
Fort Carson
Ft. Carson Co: El Paso CO 80913–5023

Landholding Agency: Army
Property Number: 219630146
Status: Unutilized
Comment: 10038 sq. ft., poor condition, possible asbestos/lead based paint, off-site use only

Bldg. 6244, 6247
Fort Carson
Ft. Carson Co: El Paso CO 80913–5023
Landholding Agency: Army
Property Number: 219630148
Status: Unutilized
Comment: fair condition, possible asbestos/lead based paint, most recent use—admin., off-site use only

Bldg. S–6245, S–6246
Fort Carson
Ft. Carson Co: El Paso CO 80913–5023
Landholding Agency: Army
Property Number: 219630149
Status: Unutilized
Comment: fair condition, possible asbestos/lead based paint, most recent use—barracks, off-site use only

Bldg. S–6260
Fort Carson
Ft. Carson Co: El Paso CO 80913–5023
Landholding Agency: Army
Property Number: 219630152
Status: Unutilized
Comment: 2953 sq. ft., fair condition, possible asbestos/lead based paint, most recent use—comm. bldg., off-site use only

Bldg. S–6261
Fort Carson
Ft. Carson Co: El Paso CO 80913–5023
Landholding Agency: Army
Property Number: 219630153
Status: Unutilized
Comment: 7778 sq. ft., fair condition, possible asbestos/lead based paint, most recent use—storage, off-site use only

Bldg. T–847
Fort Carson
Ft. Carson Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 219730209
Status: Unutilized
Comment: 10,286 sq. ft., 2-story, possible asbestos/lead paint, most recent use—admin., off-site use only

Bldg. P–1007
Fort Carson
Ft. Carson Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 219730210
Status: Unutilized
Comment: 3818 sq. ft., needs repair, possible asbestos/lead paint, most recent use—health clinic, off-site use only

Bldg. T–1342
Fort Carson
Ft. Carson Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 219730211
Status: Unutilized
Comment: 13,364 sq. ft., possible asbestos/lead paint, most recent use—instruction bldg

Bldg. T–1641
Fort Carson
Ft. Carson Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 219730212
Status: Unutilized
Comment: 3663 sq. ft., possible asbestos/lead paint, most recent use—admin., off-site use only

Bldg. T–6005
Fort Carson
Ft. Carson Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 219730213
Status: Unutilized
Comment: 19,015 sq. ft., possible asbestos/lead paint, most recent use—warehouse

Bldg. T–6028
Fort Carson
Ft. Carson Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 219730214
Status: Unutilized
Comment: 10,193 sq. ft., possible asbestos/lead paint, most recent use—warehouse, off-site use only

Bldg. T–6049
Fort Carson
Ft. Carson Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 219730215
Status: Unutilized
Comment: 19,344 sq. ft., possible asbestos/lead paint, most recent use—youth center

Bldg. P–6225A
Fort Carson
Ft. Carson Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 219730216
Status: Unutilized
Comment: 1040 sq. ft., possible asbestos/lead paint, most recent use—garage, off-site use only

Bldg. S–6274
Fort Carson
Ft. Carson Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 219730217
Status: Unutilized
Comment: 4751 sq. ft., possible asbestos/lead paint, most recent use—warehouse, off-site use only

Georgia

Bldg. 5390
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219010137
Status: Unutilized
Comment: 2432 sq. ft.; most recent use—dining room; needs rehab

Bldg. 5362
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219010147
Status: Unutilized
Comment: 5559 sq. ft.; most recent use—service club; needs rehab

Bldg. 5392
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219010151
Status: Unutilized
Comment: 2432 sq. ft.; most recent use—dining room; needs rehab

Bldg. 5391
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219010152
Status: Unutilized
Comment: 2432 sq. ft.; most recent use—dining room needs rehab

Bldg. 4487
Fort Benning
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219011681
Status: Unutilized
Comment: 1868 sq. ft.; most recent use—telephone exchange bldg.; needs substantial rehabilitation; 1 floor

Bldg. 3400
Fort Benning
Fort Benning Co: Muscogee GA 31905
Landholding Agency: Army
Property Number: 219011694
Status: Unutilized
Comment: 2570 sq. ft.; most recent use—fire station; needs substantial rehabilitation; 1 floor

Bldg. 2285
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219011704
Status: Unutilized
Comment: 4574 sq. ft.; most recent use—clinic; needs substantial rehabilitation; 1 floor

Bldg. 4092
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219011709
Status: Unutilized
Comment: 336 sq. ft.; most recent use—inflamable materials storage; needs substantial rehabilitation; 1 floor

Bldg. 4089
Fort Benning
Fort Benning Co: Muscogee GA 31905
Landholding Agency: Army
Property Number: 219011710
Status: Unutilized
Comment: 176 sq. ft.; most recent use—gas station; needs substantial rehabilitation; 1 floor

Bldg. 1235
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219014887
Status: Unutilized
Comment: 9367 sq. ft., 1 story building, needs rehab, most recent use—General Storehouse

Bldg. 1236
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219014888
Status: Unutilized
Comment: 9367 sq. ft., 1 story building, needs rehab, most recent use—General Storehouse

Bldg. 4491
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219014916
Status: Unutilized
Comment: 18240 sq. ft., 1 story building, needs rehab, most recent use—Vehicle maintenance shop

Bldg. 2150
Fort Benning
Fort Benning Co: Muscogee GA 31905–

Landholding Agency: Army
Property Number: 219120258
Status: Unutilized
Comment: 3909 sq. ft., 1 story, needs rehab, most recent use—general inst. bldg

Bldg. 3828
Fort Benning
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219120266
Status: Unutilized
Comment: 628 sq. ft., 1 story, needs rehab, most recent use—general storehouse

Bldg. 3086, Fort Benning
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219220688
Status: Unutilized
Comment: 4720 sq. ft., 2 story, most recent use—barraks, needs major rehab, off-site removal only

Bldg. 3089, Fort Benning
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219220689
Status: Unutilized
Comment: 4720 sq. ft., 2 story, most recent use—barraks, needs major rehab, off-site removal only

Bldg. 1252, Fort Benning
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219220694
Status: Unutilized
Comment: 583 sq. ft., 1 story, most recent use—storehouse, needs major rehab, off-site removal only

Bldg. 1733, Fort Benning
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219220698
Status: Unutilized
Comment: 9375 sq. ft., 1 story, most recent use—storehouse, needs major rehab, off-site removal only

Bldg. 3083, Fort Benning
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219220699
Status: Unutilized
Comment: 1372 sq. ft., 1 story, most recent use—storehouse, needs major rehab, off-site removal only

Bldg. 3856, Fort Benning
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219220703
Status: Unutilized
Comment: 4111 sq. ft., 1 story, most recent use—storehouse, needs major rehab, off-site removal only

Bldg. 4881, Fort Benning
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219220707
Status: Unutilized
Comment: 2449 sq. ft., 1 story, most recent use—storehouse, need repairs, off-site removal only

Bldg. 4963, Fort Benning
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219220710
Status: Unutilized
Comment: 6077 sq. ft., 1 story, most recent use—storehouse, need repairs, off-site removal only

Bldg. 2396, Fort Benning
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219220712
Status: Unutilized
Comment: 9786 sq. ft., 1 story, most recent use—dining facility, needs major rehab, off-site removal only

Bldg. 3085, Fort Benning
Fort Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219220715
Status: Unutilized
Comment: 2253 sq. ft., 1 story, most recent use—dining facility, needs major rehab, off-site removal only

Bldg. 4882, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219220727
Status: Unutilized
Comment: 6077 sq. ft., 1 story, most recent use—storage, needs repairs, off-site removal only

Bldg. 4967, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219220728
Status: Unutilized
Comment: 6077 sq. ft., 1 story, most recent use—storage, needs repairs, off-site removal only

Bldg. 5396, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219220734
Status: Unutilized
Comment: 10944 sq. ft., 1 story, most recent use—general instruction bldg. needs major rehab, off-site removal only

Bldg. 4977, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219220736
Status: Unutilized
Comment: 192 sq. ft., 1 story, most recent use—offices, needs repairs, off-site removal only

Bldg. 4944, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219220747
Status: Unutilized
Comment: 6400 sq. ft., 1 story, most recent use—vehicle maintenance shop, needs repairs, off-site removal only

Bldg. 4960, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219220752
Status: Unutilized
Comment: 3335 sq. ft., 1 story, most recent use—vehicle maintenance shop, off-site removal only

Bldg. 4969, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219220753
Status; Unutilized
Comment: 8416 sq. ft., 1 story, most recent use—vehicle maintenance shop, off-site removal only

Bldg. 1758, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219220755
Status: Unutilized
Comment: 7817 sq. ft., 1 story, most recent use—warehouse, needs major rehab, off-site removal only

Bldg. 3817, Fort Benning
Ft. Benning Co: Muscogee Ga 31905–
Landholding Agency: Army
Property Number: 219220758
Status: Unutilized
Comment: 4000 sq. ft., 1 story, most recent use—warehouse, needs major rehab, off-site removal only

Bldg. 4884, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219220762
Status: Unutilized
Comment: 2000 sq. ft., 1 story, most recent use—headquarters bldg., needs repairs, off-site removal only

Bldg. 4964, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landlanding Agency: 219220763
Status: Unutilized
Comment: 2000 sq. ft., 1 story, most recent use—headquarters bldg., needs repairs, off-site removal only

Bldg. 4966, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219220764
Status: Unutilized
Comment: 2000 sq. ft., 1 story, most recent use—headquarters bldg., needs repairs, off-site removal only.

Bldg. 4679, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number; 219220767
Status: Unutilized
Comment: 8657 sq. ft., 1 story, most recent use—supply bldg., needs major rehab, off-site removal only

Bldg. 4883, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219220768
Status: Unutilized
Comment: 2600 sq. ft., 1 story, most recent use—supply bldg., needs repairs, off-site removal only

Bldg. 4965, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219220769
Status: Unutilized
Comment: 7713 sq. ft., 1 story, most recent use—supply bldg., needs repairs, off-site removal only

Bldg. 2513, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219220770
Status: Unutilized
Comment: 9483 sq. ft., 1 story, most recent use—training center, needs major rehab, off-site removal only

Bldg. 2589, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army

Property Number: 219220772
Status: Unutilized
Comment: 146 sq. ft., 1 story, most recent use—training bldg., needs major rehab, off-site removal only

Bldg. 4945, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219220779
Status: Unutilized
Comment: 220 sq. ft., 1 story, most recent use—gas station, needs major rehab, off-site removal only

Bldg. 4979, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219220780
Status: Unutilized
Comment: 400 sq. ft., 1 story, most recent use—oil house, needs repair, off-site removal only

Bldg. 4004, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310418
Status: Unutilized
Comment: 4720 sq. ft., 2 story, needs rehab, most recent use—barracks, off-site use only

Bldg. 1835, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310443
Status: Unutilized
Comment: 1712 sq. ft., 1 story, needs rehab, most recent use—day room, off-site use only

Bldg. 3072, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310447
Status: Unutilized
Comment: 479 sq. ft., 1 story, needs rehab, most recent use—hdqtrs. bldg., off-site use only

Bldg. 4019, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310451
Status: Unutilized
Comment: 3270 sq. ft., 2 story, needs rehab, most recent use—hdqtrs bldg., off-site use only

Bldg. 4023, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310461
Status: Unutilized
Comment: 2269 sq. ft., 1 story, needs rehab, most recent use—maintenance shop, off-site use only

Bldg. 4024, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310462
Status: Unutilized
Comment: 3281 sq. ft., 1 story, needs rehab, most recent use—maintenance shop, off-site use only

Bldg. 4067, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310465
Status: Unutilized
Comment: 4406 sq. ft., 1 story, needs rehab, most recent use—admin., off-site use only

Bldg. 10847, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310476
Status: Unutilized
Comment: 1056 sq. ft., 1 story, needs rehab, most recent use—scout bldg., off-site use only

Bldg. 10768, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310477
Status: Unutilized
Comment: 1230 sq. ft., 1 story, needs rehab, most recent use—scout bldg., off-site use only

Bldg. 2683, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219310478
Status: Unutilized
Comment: 1816 sq. ft., 1 story, needs rehab, most recent use—scout bldg., off-site use only

Bldg. 354, Fort Gordon
Ft. Gordon Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 219330259
Status: Unutilized
Comment: 4237 sq. ft., 1 story, possible termite damage, needs repair, presence of asbestos, most recent use—offices, off-site use only

Bldg. 355, Fort Gordon
Ft. Gordon Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 219330260
Status: Unutilized
Comment: 4237 sq. ft., 1-story wood, needs repair, presence of asbestos, most recent use—offices, off-site use only

Bldg. 356, Fort Gordon
Ft. Gordon Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 219330261
Status: Unutilized
Comment: 4237 sq. ft., 1-story wood, possible termite damage, needs repair, most recent use—offices, off-site use only

Bldg. 19601, Fort Gordon
Ft. Gordon Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 219330268
Status: Unutilized
Comment: 2132 sq. ft., 1-story wood, possible termite damage, presence of asbestos, most recent use—offices, off-site use only

Bldg. 332, Fort Gordon
Ft. Gordon Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 219330289
Status: Unutilized
Comment: 5340 sq. ft., 1-story wood, needs repair, presence of asbestos, most recent use—laboratory, off-site use only

Bldg. 333, Fort Gordon
Fort Gordon Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 219330290
Status: Unutilized
Comment: 5340 sq. ft., 1-story wood, possible termite damage, needs repair, presence of asbestos, most recent use—laboratory, off-site use only

Bldg. 352, Fort Gordon
Fort Gordon Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 219330294
Status: Unutilized
Comment: 560 sq. ft., 1-story metal, presence of asbestos, most recent use—equip. storage, off-site use only

Bldg. 10501
Fort Gordon
Fort Gordon Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 219410264
Status: Unutilized
Comment: 2516 sq. ft.; 1 story; wood; needs rehab.; most recent use—office; off-site use only

Bldg. 11813
Fort Gordon
Fort Gordon Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 219410269
Status: Unutilized
Comment: 70 sq. ft.; 1 story; metal; needs rehab.; most recent use—storage; off-site use only

Bldg. 21314
Fort Gordon
Fort Gordon Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 219410270
Status: Unutilized
Comment: 85 sq. ft.; 1 story; needs rehab.; most recent use—storage; off-site use only

Bldg. 951
Fort Gordon
Fort Gordon Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 219410271
Status: Unutilized
Comment: 17,825 sq. ft.; 1 story; wood; needs rehab.; most recent use—workshop; off-site use only

Bldg. 12809
Fort Gordon
Fort Gordon Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 219410272
Status: Unutilized
Comment: 2788 sq. ft.; 1 story; wood; needs rehab.; most recent use—maintenance shop; off-site use only

Bldg. 10306
Fort Gordon
Fort Gordon Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 219410273
Status: Unutilized
Comment: 195 sq. ft.; 1 story; wood; most recent use—oil storage shed; off-site use only

Bldg. T–901
Hunter Army Airfield
Savannah Co: Chatham GA 31409–
Landholding Agency: Army
Property Number: 219520077
Status: Unutilized
Comment: 1828 sq. ft., 1-story, needs major repair, most recent use—admin., off-site use only

Bldg. 2814, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219520133

Status: Unutilized
Comment: 40536 sq. ft., 4-story, most recent use—barracks w/dining, needs major repair, off-site use only

Bldg. 1755, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219520170
Status: Unutilized
Comment: 3142 sq. ft., needs rehab, most recent use—maint. shop, off-site use only

Bldg. 4051, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219520175
Status: Unutilized
Comment: 967 sq. ft., 1-story, needs rehab, most recent use—storage, off-site use only

Bldg. 2141
Fort Gordon
Ft. Gordon Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 219610655
Status: Unutilized
Comment: 2283 sq. ft., needs repair, most recent use—office, off-site use only

Bldg. 34300
Fort Gordon
Ft. Gordon Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 219620664
Status: Unutilized
Comment: 2525 sq. ft., most recent use—auto svc store, possible asbestos, off-site use only

Bldg. S–7332
Fort Stewart
Hinesville Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 219630160
Status: Excess
Comment: 1140 sq. ft., fair condition, most recent use—admin., off-site use only

Bldg. T–293
Fort Stewart
Hinesville Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 219710230
Status: Excess
Comment: 5220 sq. ft. most recent use—admin., needs major repairs, off-site use only

Bldg. T–963
Fort Stewart
Hinesville Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 219710232
Status: Excess
Comment: 3108 sq. ft., most recent use—veh. maint. shop, needs major repairs, off-site use only

Bldg. 107
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219720154
Status: Unutilized
Comment: 12823 sq. ft., needs rehab, most recent use—warehouse, off-site use only

Bldg. 239
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219720155
Status: Unutilized
Comment: 2817 sq. ft., needs rehab, most recent use—exchange service outlet, off-site use only

Bldg. 322
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219720156
Status: Unutilized
Comment: 9600 sq. ft., needs rehab, most recent use—admin., off-site use only

Bldg. 327
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219720157
Status: Unutilized
Comment: 966 sq. ft., needs rehab, most recent use—storage, off-site use only

Bldg. 329
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219720158
Status: Unutilized
Comment: 1001 sq. ft., needs rehab, most recent use—access cnt fac, off-site use only

Bldg. 1737
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219720161
Status: Unutilized
Comment: 1500 sq. ft., needs rehab, most recent use—storage, off-site use only

Bldg. 2515
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219720163
Status: Unutilized
Comment: 4720 sq. ft., needs rehab, most recent use—admin., off-site use only

Bldg. 2592
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219720166
Status: Unutilized
Comment: 11674 sq. ft., needs rehab., most recent gym, off-site use only

Bldg. 2593
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219720167
Status: Unutilized
Comment: 13644 sq. ft., needs rehab, most recent use—parachute shop, off-site use only

Bldg. 2595
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219720168
Status: Unutilized
Comment: 3356 sq. ft., needs rehab, most recent use—chapel, off-site use only

Bldgs. 2865, 2869, 2872
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219720169
Status: Unutilized
Comment: approx. 1100 sq. ft. each, needs rehab, most recent use—shower fac., off-site use only

Bldg. 4400–4402
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219720170
Status: Unutilized
Comment: various sq. ft., needs rehab, most recent use—admin., off-site use only

Bldg. 4404
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219720171
Status: Unutilized
Comment: 2723 sq. ft., needs rehab, most recent use—detached day room, off-site use only

Bldg. 4405
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219720172
Status: Unutilized
Comment: 7670 sq. ft., needs rehab, most recent use—barracks, off-site use only

Bldg. 4406
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219720173
Status: Unutilized
Comment: 1372 sq. ft., needs rehab, most recent use—storage, off-site use only

Bldg. 4407
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219720174
Status: Unutilized
Comment: 1635 sq. ft., needs rehab, most recent use—admin., off-site use only

11 Bldgs.
Fort Benning
4428–4429, 4433–4436, 4441–4443, 4447–4448
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219720175
Status: Unutilized
Comment: 4425 sq. ft. each, needs rehab, most recent use—barracks, off-site use only

6 Bldgs.
Fort Benning
4450–4451, 4453–4454, 4456–4457
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219720176
Status: Unutilized
Comment: 4425 sq. ft. each, needs rehab, most recent use—barracks, off-site use only

10 Bldgs.
Fort Benning
4460–4461, 4463–4464, 4468, 4470–4474
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219720177
Status: Unutilized
Comment: 4425 sq. ft. each, needs rehab, most recent use—barracks, off-site use only

Bldgs. 4432, 4440, 4445

Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219720179
Status: Unutilized
Comment: various sq. ft., needs rehab, most recent use—storage, off-site use only

8 Bldgs.
Fort Benning
4425, 4431, 4438–4439, 4452, 4458–4459, 4465
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219720180
Status: Unutilized
Comment: 2498 sq. ft. each, needs rehab, most recent use—dining facility, off-site use only

6 Bldgs.
Fort Benning
4430, 4437, 4449, 4455, 4462, 4467
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219720181
Status: Unutilized
Comment: 1884 sq. ft. each, needs rehab, most recent use—admin., off-site use only

Bldg. 4444
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219720182
Status: Unutilized
Comment: 2284 sq. ft., needs rehab, most recent use—medical clinic, off-site use only

Bldg. 4475
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219720183
Status: Unutilized
Comment: 2213 sq. ft., needs rehab, most recent use—headquarters bldg., off-site use only

Bldg. 4476
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 2197201184
Status: Unutilized
Comment: 3148 sq. ft., needs rehab, most recent use—headquarters bldg., off-site use only

Bldgs. 4478, 4485
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219720185
Status: Unutilized
Comment: 3000 sq. ft. and 4366 sq. ft., needs rehab, most recent use—instruction bldg., off-site use only

Bldg. 4480
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219720186
Status: Unutilized
Comment: 3000 sq. ft., needs rehab, most recent use—mobilization dining facility, off-site use only

Bldg. 4482
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219720187
Status: Unutilized
Comment: 3000 sq. ft., needs rehab, most recent use—carpentry shop, off-site use only

8 Bldgs.
Fort Benning
4700–4701, 4704–4707, 4710–4711
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219720189
Status: Unutilized
Comment: 6433 sq. ft. each, needs rehab, most recent use—unaccompanied personnel housing, off-site use only

Bldg. 4414
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219720191
Status: Unutilized
Comment: 1983 sq. ft., needs rehab, most recent use—battalion headquarters bldg., off-site use only

Bldg. 4402
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219720192
Status: Unutilized
Comment: 3690 sq. ft., needs rehab, most recent use—dining facility off-site use only

Bldg. 4712–4713
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219720193
Status: Unutilized
Comment: 1983 sq. ft. and 10270 sq. ft., needs rehab, most recent use—company headquarters bldg., off-site use only

Bldg. T–930
Fort Stewart
Hinesville Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 219730218
Status: Unutilized
Comment: 34098 sq. ft., poor condition, most recent use—laundry, off-site use only

Bldg. T–931
Fort Stewart
Hinesville Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 219730219
Status: Unutilized
Comment: 2332 sq. ft., poor condition, most recent use—gas gen. plant, off-site use only

Bldg. T–949
Fort Stewart
Hinesville Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 219730220
Status: Unutilized
Comment: 240 sq. ft., poor condition, most recent use—plant bldg., off-site use only

Bldg. T–286
Fort Stewart
Hinesville Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 219810261
Status: Excess
Comment: 5310 sq. ft., poor condition, most recent use—admin., off-site use only

Bldg. P–1622
Fort Stewart
Hinesville Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 219810262
Status: Excess
Comment: 64 sq. ft., poor condition, most recent use—gas station, off-site use only

Bldg. P–9597
Fort Stewart
Hinesville Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 219810263
Status: Excess
Comment: 324 sq. ft., poor condition, most recent use—storage, off-site use only

Bldg. 122
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219810264
Status: Unutilized
Comment: 1933 sq. ft., most recent use—admin., off-site use only

Bldg. 123
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219810265
Status: Unutilized
Comment: 3590 sq. ft., most recent use—admin., off-site use only

Bldg. 124
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219810266
Status: Unutilized
Comment: 227 sq. ft., most recent use—access control, off-site use only

Bldg. 214
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219810267
Status: Unutilized
Comment: 26,268 sq. ft., most recent use—confinement facility, off-site use only

Bldg. 305
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219810268
Status: Unutilized
Comment: 4083 sq. ft., most recent use—recreation center, off-site use only

Bldg. 318
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219810269
Status: Unutilized
Comment: 374 sq. ft., poor condition, most recent use—maint. shop, off-site use only

Bldg. 1699
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219810270
Status: Unutilized
Comment: 3000 sq. ft., most recent use—admin., off-site use only

Bldg. 1792
Fort Benning

Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219810274
Status: Unutilized
Comment: 10,200 sq. ft., most recent use—storage, off-site use only

Bldg. 1796
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219810275
Status: Unutilized
Comment: 5071 sq. ft., most recent use—recreation, off-site use only

Bldg. 1836
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219810276
Status: Unutilized
Comment: 2998 sq. ft., most recent use—admin., off-site use only

Bldg. 2639
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219810277
Status: Unutilized
Comment: 4720 sq. ft., most recent use—hdqtrs. bldg., off-site use only

Bldg. 2640
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219810278
Status: Unutilized
Comment: 4798 sq. ft., most recent use—admin., off-site use only

Bldg. 2641
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219810279
Status: Unutilized
Comment: 1336 sq. ft., most recent use—storage, off-site use only

Bldg. 2642
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219810280
Status: Unutilized
Comment: 4798 sq. ft., most recent use—admin., off-site use only

Bldg. 2643
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219810281
Status: Unutilized
Comment: 4720 sq. ft., most recent use—admin., off-site use only

Bldg. 4373
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219810286
Status: Unutilized
Comment: 409 sq. ft., poor condition, most recent use—station bldg., off-site use only

Bldg. 4628
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219810287
Status: Unutilized
Comment: 5483 sq. ft., most recent use—admin., off-site use only

Bldg. T–965
Fort Stewart
Hinesville Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 219820144
Status: Unutilized
Comment: 2740 sq. ft., needs major rehab, most recent use—storage, off-site use only

Bldg. T–801
Hunter Army Airfield
Savannah Co: Chatham GA 31409–
Landholding Agency: Army
Property Number: 219820145
Status: Unutilized
Comment: 4660 sq. ft., needs major rehab, most recent use—armory, off-site use only

Bldg. T–807
Hunter Army Airfield
Savannah Co: Chatham GA 31409–
Landholding Agency: Army
Property Number: 219820146
Status: Unutilized
Comment: 4660 sq. ft., needs major rehab, most recent use—hdqts. bldg., off-site use only

Bldg. T–809
Hunter Army Airfield
Savannah Co: Chatham GA 31409–
Landholding Agency: Army
Property Number: 219820147
Status: Unutilized
Comment: 6461 sq. ft., needs major rehab, most recent use—hdqts. bldg., off-site use only

Hawaii

P–88
Aliamanu Military Reservation
Honolulu Co: Honolulu HI 96818–
Location: Approximately 600 feet from Main Gate on Aliamanu Drive.
Landholding Agency: Army
Property Number: 219030324
Status: Unutilized
Comment: 45,216 sq. ft. underground tunnel complex, pres. of asbestos clean-up required of contamination, use of respirator required by those entering property, use limitations

Bldg. S–823
Wheeler Army Airfield
Wahiawa HI 96786–
Landholding Agency: Army
Property Number: 219520082
Status: Unutilized
Comment: 3150 sq. ft., 2-story wood frame, most recent use—office, off-site use only

Bldg. T–723
Fort Shafter
Honolulu HI 96819–
Landholding Agency: Army
Property Number: 219620657
Status: Unutilized
Comment: 1751 sq. ft., most recent use—store house, off-site use only

Bldg. T–1629
Schofield Barracks
Wahiawa HI 96786–
Landholding Agency: Army
Property Number: 219620658
Status: Unutilized
Comment: 3287 sq. ft., most recent use—storage, possible termite infestation, off-site use only

Bldg. T–587
Schofield Barracks
Wahiawa HI 96786–
Landholding Agency: Army
Property Number: 219640198
Status: Unutilized
Comment: 3448 sq. ft., most recent use—office, off-site use only

Bldg. T–674A
Schofield Barracks
Wahiawa HI 96786–
Landholding Agency: Army
Property Number: 219640201
Status: Unutilized
Comment: 4365 sq. ft., most recent use—office/classroom, off-site use only

Bldg. T–675A
Schofield Barracks
Wahiawa HI 96786–
Landholding Agency: Army
Property Number: 219640202
Status: Unutilized
Comment: 4365 sq. ft., most recent use—office, off-site use only

Bldg. T–337
Fort Shafter
Honolulu Co: Honolulu HI 96819–
Landholding Agency: Army
Property Number: 219640203
Status: Unutilized
Comment: 132 sq. ft., most recent use—storage, off-site use only

Bldg. T–527
Fort Shafter
Honolulu Co: Honolulu HI 96819–
Landholding Agency: Army
Property Number: 219640204
Status: Unutilized
Comment: 4131 sq. ft., most recent use—training center, off-site use only

Bldg. T–69
Schofield Barracks
Wahiawa HI 96786–
Landholding Agency: Army
Property Number: 219720198
Status: Unutilized
Comment: 3039 sq. ft., most recent use—chapel, needs repair, off-site use only

Bldg. T–911
Schofield Barracks
Wahiawa HI 96786–
Landholding Agency: Army
Property Number: 219720199
Status: Unutilized
Comment: 4800 sq. ft., most recent use—office, needs repair, off-site use only

Bldg. T–912
Schofield Barracks
Wahiawa HI 96786–
Landholding Agency: Army
Property Number: 219720200
Status: Unutilized
Comment: 4800 sq. ft., most recent use—office, needs repair, off-site use only

Bldg. T–913
Schofield Barracks
Wahiawa HI 96786–
Landholding Agency: Army
Property Number: 219720201
Status: Unutilized
Comment: 4800 sq. ft., most recent use—office, needs repair, off-site use only

Bldg. T–914
Schofield Barracks
Wahiawa HI 96786–
Landholding Agency: Army
Property Number: 219720202
Status: Unutilized
Comment: 144 sq. ft., most recent use—storage, needs repair, off-site use only

Bldg. T–917
Schofield Barracks
Wahiawa HI 96786–
Landholding Agency: Army
Property Number: 219720203
Status: Unutilized
Comment: 1328 sq. ft., most recent use—office, needs repair, off-site use only

Bldg. T–918
Schofield Barracks
Wahiawa HI 96786–
Landholding Agency: Army
Property Number: 219720204
Status: Unutilized
Comment: 1306 sq. ft., most recent use—classroom, needs repair, off-site use only

Bldg. T–920
Schofield Barracks
Wahiawa HI 96786–
Landholding Agency: Army
Property Number: 219720205
Status: Unutilized
Comment: 1306 sq. ft., most recent use—office, needs repair, off-site use only

Bldg. T–921
Schofield Barracks
Wahiawa HI 96786–
Landholding Agency: Army
Property Number: 219720206
Status: Unutilized
Comment: 1427 sq. ft., most recent use—office, needs repair, off-site use only

Bldg. T–105
Fort Shafter
Honolulu Co: Honolulu HI 96819–
Landholding Agency: Army
Property Number: 219740282
Status: Unutilized
Comment: 13,600 sq. ft., needs rehab, most recent use—offices, off-site use only

Bldgs. T–306, T–308, T–312
Fort Shafter
Honolulu Co: Honolulu HI 96819–
Landholding Agency: Army
Property Number: 219740285
Status: Unutilized
Comment: 400 sq. ft. each, needs rehab, most recent use—garages, off-site use only

10 Bldgs.
Fort Shafter
P–604 thru P–613
Honolulu Co: Honolulu HI 96819–
Landholding Agency: Army
Property Number: 219740286
Status: Unutilized
Comment: 4992 sq. ft. each, needs rehab, most recent use—housing, off-site use only

11 Bldgs.
Fort Shafter
P–614 thru P–624
Honoluly Co: Honolulu HI 96819–
Landholding Agency: Army
Property Number: 219740287
Status: Unutilized
Comment: 4992 sq. ft. each, needs rehab, most recent use—housing, off-site use only

Bldg. P–631
Fort Shafter
Honolulu Co: Honolulu HI 96819–
Landholding Agency: Army
Property Number: 219740288
Status: Unutilized
Comment: 5028 sq. ft., needs rehab, most recent use—housing, off-site use only

Bldg. P–633
Fort Shafter
Honolulu Co: Honolulu HI 96819–
Landholding Agency: Army
Property Number: 219740289
Status: Unutilized
Comment: 4554 sq. ft., needs rehab, most recent use—housing, off-site use only

Bldg. P–635
Fort Shafter
Honolulu Co: Honolulu HI 96819–
Landholding Agency: Army
Property Number: 219740290
Status: Unutilized
Comment: 6828 sq. ft., needs rehab, most recent use—housing, off-site use only

Bldg. P–1010
Wheeler Army Airfield
Wahiawa HI 96786–
Landholding Agency: Army
Property Number: 219820148
Status: Unutilized
Comment: 114 sq. ft., concrete, most recent use—storage, off-site use only

Bldg. T–318
Fort Shafter
Honolulu Co: Honolulu HI 96819–
Landholding Agency: Army
Property Number: 219820149
Status: Unutilized
Comment: 3687 sq. ft., most recent use—classrooms, off-site use only

Bldg. T–320
Fort Shafter
Honolulu Co: Honolulu HI 96819–
Landholding Agency: Army
Property Number: 219820150
Status: Unutilized
Comment: 17,702 sq. ft., most recent use—offices, off-site use only

Bldg., P–600, P–602
Fort Shafter
Honolulu Co: Honolulu HI 96819–
Landholding Agency: Army
Property Number: 219820151
Status: Unutilized
Comment: 4992 sq. ft. ea., concrete, most recent use—housing, off-site use only

Bldg. T–1519
Fort Shafter
Honolulu Co: Honolulu HI 96819–
Landholding Agency: Army
Property Number: 219820152
Status: Unutilized
Comment: 35,200 sq. ft., presence of asbestos, most recent use—storage, off-site use only

Illinois

Bldg. 54
Rock Island Arsenal
Rock Island Co: Rock Island IL 61299–
Landholding Agency: Army
Property Number: 219620666
Status: Unutilized
Comment: 2000 sq. ft., most recent use—oil storage, needs repair, off-site use only

Kansas

Bldg. 166, Fort Riley
Ft. Riley Co: Geary KS 66442–
Landholding Agency: Army
Property Number: 219410325
Status: Unutilized
Comment: 3803 sq. ft., 3-story brick residence, needs rehab, presence of asbestos, located within National Registered Historic District

Bldg. 184, Fort Riley
Ft. Riley KS 66442–
Landholding Agency: Army
Property Number: 219430146
Status: Unutilized
Comment: 1959 sq. ft., 1-story, needs rehab, presence of asbestos, most recent use—boiler plant, historic district

Bldg. P–313, Fort Riley
Ft. Riley KS 66442–
Landholding Agency: Army
Property Number: 219620668
Status: Unutilized
Comment: 6222 sq. ft., most recent use-admin. bldg. needs repair, possible asbestos

Bldg. P–138
Fort Leavenworth
Leavenworth KS 66027–
Landholding Agency: Army
Property Number: 219730232
Status: Unutilized
Comment: 5087 sq. ft., 2-story, possible asbestos/lead paint, most recent use—battalion hdqtrs., off-site use only

Bldg. P–139
Fort Leavenworth
Leavenworth KS 66027–
Landholding Agency: Army
Property Number; 219730233
Status: Unutilized
Comment: 1798 sq. ft., possible asbestos/lead paint, most recent use—brigade hdqtrs., off-site use only

Bldg. S–402
Fort Leavenworth
Leavenworth KS 66027–
Landholding Agency: Army
Property Number: 219730234
Status: Unutilized
Comment: 2792 sq. ft., possible asbestos/lead paint, most recent use—hospital clinic, off-site use only

Bldg. S–404
Fort Leavenworth
Leavenworth KS 66027–
Landholding Agency: Army
Property Number: 219730235
Status: Unutilized
Comment: 4795 sq. ft., possible asbestos/lead paint, most recent use—hospital clinic, off-site use only

Bldg. P–355
Fort Leavenworth
Leavenworth KS 66027–
Landholding Agency: Army
Property Number: 219740291
Status: Unutilized
Comment: 3523 sq. ft., most recent use—pole barn, off-site use only

Bldg. P–356
Fort Leavenworth
Leavenworth KS 66027–
Landholding Agency: Army

Property Number: 219740292
Status: Unutilized
Comment: 2898 sq. ft., most recent use—quonset barn, off-site use only

Bldg. P–358
Fort Leavenworth
Leavenworth KS 66027–
Landholding Agency: Army
Property Number: 219740293
Status: Unutilized
Comment: 1960 sq. ft., presence of lead based paint, most recent use—barn, off-site use only

Bldg. P–389
Fort Leavenworth
Leavenworth KS 66027–
Landholding Agency: Army
Property Number: 219740294
Status: Unutilized
Comment: 576 sq. ft., presence of lead based paint, most recent use—storage, off-site use only

Bldg. P–390
Fort Leavenworth
Leavenworth KS 66027–
Landholding Agency: Army
Property Number: 219740295
Status: Unutilized
Comment: 4713 sq. ft., presence of lead based paint, most recent use—swine house, off-site use only

Bldg. P–411
Fort Leavenworth
Leavenworth KS 66027–
Landholding Agency: Army
Property Number: 219740296
Status: Unutilized
Comment: 2898 sq. ft., most recent use—barn, off-site use only

Bldg. P–416
Fort Leavenworth
Leavenworth KS 66027–
Landholding Agency: Army
Property Number: 219740297
Status: Unutilized
Comment: 2760 sq. ft., presence of lead based paint, most recent use—horse stable, off-site use only

Bldg. S–650
Fort Riley
Ft. Riley KS 66442–
Landholding Agency: Army
Property Number: 219810292
Status: Unutilized
Comment: 22,331 sq. ft., presence of asbestos, most recent use—cold storage

Bldg. P–652
Fort Riley
Ft. Riley KS 66442–
Landholding Agency: Army
Property Number: 219810293
Status: Unutilized
Comment: 8,167 sq. ft., presence of asbestos, most recent use—cold storage

Bldg. S–7711
Fort Riley
Ft. Riley KS 66442–
Landholding Agency: Army
Property Number: 219810294
Status: Unutilized
Comment: 648 sq. ft., poor condition, presence of asbestos, most recent use—storage

Bldg. P–63
Fort Leavenworth
Leavenworth Co: Leavenworth KS 66027–
Landholding Agency: Army
Property Number: 219810295
Status: Unutilized
Comment: 9376 sq. ft., concrete, possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. T–323
Fort Leavenworth
Leavenworth Co: Leavenworth KS 66027–
Landholding Agency: Army
Property Number: 219810297
Status: Unutilized
Comment: 720 sq. ft., most recent use—boy scout bldg., off-site use only

Bldg. T–688
Fort Leavenworth
Leavenworth Co: Leavenworth KS 66027–
Landholding Agency: Army
Property Number: 219810298
Status: Unutilized
Comment: 832 sq. ft., possible lead paint, most recent use—girl scout bldg., off-site use only

Bldg. T–895
Fort Leavenworth
Leavenworth Co: Leavenworth KS 66027–
Landholding Agency: Army
Property Number : 219810299
Status: Unutilized
Comment: 228 sq. ft., possible lead paint, most recent use—storage, off-site use only

Bldg. P–1032
Fort Leavenworth
Leavenworth Co: Leavenworth KS 66027–
Landholding Agency: Army
Property Number : 219810300
Status: Unutilized
Comment: 728 sq. ft., most recent use—dog kennel, off-site use only

Bldg. P–68
Fort Leavenworth
Leavenworth KS 66027–
Landholding Agency: Army
Property Number : 219820153
Status: Unutilized
Comment: 2236 sq. ft., most recent use—vehicle storage, off-site use only

Bldg. P–69
Fort Leavenworth
Leavenworth KS 66027–
Landholding Agency: Army
Property Number : 219820154
Status: Unutilized
Comment: 224 sq. ft., most recent use—storage, off-site use only

Bldg. P–93
Fort Leavenworth
Leavenworth KS 66027–
Landholding Agency: Army
Property Number : 219820155
Status: Unutilized
Comment: 63 sq. ft., concrete, most recent use—storage, off-site use only

Bldg. P–128
Fort Leavenworth
Leavenworth KS 66027–
Landholding Agency: Army
Property Number : 219820156
Status: Unutilized
Comment: 79 sq. ft., concrete, most recent use—storage, off-site use only

Bldg. P–321
Fort Leavenworth
Leavenworth KS 66027–
Landholding Agency: Army
Property Number : 219820157
Status: Unutilized
Comment: 600 sq. ft., most recent use—picnic shelter, off-site use only

Bldg. P–347
Fort Leavenworth
Leavenworth KS 66027–
Landholding Agency: Army
Property Number : 219820158
Status: Unutilized
Comment: 2135 sq. ft., most recent use—bath house, off-site use only

Bldg. P–397
Fort Leavenworth
Leavenworth KS 66027–
Landholding Agency: Army
Property Number : 219820159
Status: Unutilized
Comment: 80 sq. ft., most recent use—storage, off-site use only

Bldg. S–809
Fort Leavenworth
Leavenworth KS 66027–
Landholding Agency: Army
Property Number : 219820160
Status: Unutilized
Comment: 39 sq. ft., most recent use—access control, off-site use only

Bldg. S–830
Fort Leavenworth
Leavenworth KS 66027–
Landholding Agency: Army
Property Number : 219820161
Status: Unutilized
Comment: 5789 sq. ft., most recent use—underground storage, off-site use only

Bldg. S–831
Fort Leavenworth
Leavenworth KS 66027–
Landholding Agency: Army
Property Number : 219820162
Status: Unutilized
Comment: 5789 sq. ft., most recent use—underground storage, off-site use only

Louisiana

Bldg. 7311, Fort Polk
Ft. Polk Co: Vernon LA 71459–
Landholding Agency: Army
Property Number : 219620681
Status: Unutilized
Comment: 643 sq. ft., most recent use—BOQ Transient

Bldg. 7310, Fort Polk
Ft Polk Co: Vernon LA 71459–
Landholding Agency: Army
Property Number : 219620682
Status: Unutilized
Comment: 643 sq. ft., most recent use—BOQ Transient

Bldg. 7309, Fort Polk
Ft Polk co: Vernon LA 71459–
Landholding Agency: Army
Property Number : 219620683
Status: Unutilized
Comment: 643 sq. ft., most recent use—BOQ Transient, needs repair

Bldg. 5917 A, B, C, D
Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–7100
Landholding Agency: Army
Property Number: 219630164

Status: Unutilized
Comment: 3902 sq. ft., family housing, needs rehab

Bldg. 7805, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640513
Status: Unutilized
Comment: 4172 sq. ft., 2-story, most recent use—barracks

Bldg. 7806, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640514
Status: Unutilized
Comment: 4172 sq. ft., 2-story, most recent use—barracks

Bldg. 7807, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640515
Status: Unutilized
Comment: 4172 sq. ft., 2-story, most recent use—barracks

Bldg. 7808, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640516
Status: Underutilized
Comment: 4172 sq. ft., 2-story, most recent use—barracks

Bldg. 7809, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640517
Status: Underutilized
Comment: 4172 sq. ft., 2-story, most recent use—barracks

Bldg. 7810, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640518
Status: Underutilized
Comment: 4172 sq. ft., 2-story, most recent use—barracks

Bldg. 7811, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640519
Status: Underutilized
Comment: 4172 sq. ft., 2-story, most recent use—barracks

Bldg. 7813, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640520
Status: Underutilized
Comment: 4172 sq. ft., 2-story, most recent use—barracks

Bldg. 7814, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640521
Status: Underutilized
Comment: 4172 sq. ft., 2-story, most recent use—barracks

Bldg. 7815, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640522
Status: Underutilized
Comment: 4172 sq. ft., 2-story, most recent use—barracks

Bldg. 7816, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640523
Status: Underutilized
Comment: 4172 sq. ft., 2-story, most recent use—barracks

Bldg. 8405, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640524
Status: Underutilized
Comment: 1029 sq. ft., most recent use—office

Bldg. 8407, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640525
Status: Underutilized
Comment: 2055 sq. ft., most recent use—admin

Bldg. 8408, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640526
Status: Underutilized
Comment: 2055 sq. ft., most recent use—admin

Bldg. 8414, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640527
Status: Underutilized
Comment: 4172 sq. ft., most recent use—barracks

Bldg. 8423, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640528
Status: Underutilized
Comment: 4172 sq. ft., most recent use—barracks

Bldg. 8424, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640529
Status: Underutilized
Comment: 4172 sq. ft., most recent use—barracks

Bldg. 8426, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640530
Status: Underutilized
Comment: 4172 sq. ft., most recent use—barracks

Bldg. 8427, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640531
Status: Underutilized
Comment: 4172 sq. ft., most recent use—barracks

Bldg. 8428, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640532
Status: Underutilized
Comment: 4172 sq. ft., most recent use—barracks

Bldg. 8429, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640533
Status: Underutilized
Comment: 4172 sq. ft., most recent use—barracks

Bldg. 8430, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640534
Status: Underutilized
Comment: 4172 sq. ft., most recent use—barracks

Bldg. 8431, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640535
Status: Underutilized
Comment: 4172 sq. ft., most recent use—barracks

Bldg. 8432, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640536
Status: Underutilized
Comment: 4172 sq. ft., most recent use—barracks

Bldg. 8433, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640537
Status: Underutilized
Comment: 4172 sq. ft., most recent use—barracks

Bldg. 8446, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640538
Status: Underutilized
Comment: 2093 sq. ft., most recent use—admin

Bldg. 8449, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640539
Status: Underutilized
Comment: 2093 sq. ft., most recent use—office

Bldg. 8450, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640540
Status: Underutilized
Comment: 2093 sq. ft., most recent use—admin

Bldg. 8457, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640541
Status: Underutilized
Comment: 4172 sq. ft., most recent use—barracks

Bldg. 8458, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640542
Status: Underutilized
Comment: 4172 sq. ft., most recent use—barracks

Bldg. 8459, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640543
Status: Underutilized
Comment: 4172 sq. ft., most recent use—barracks

Bldg. 8460, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–

Landholding Agency: Army
Property Number: 219640544
Status: Underutilized
Comment: 4172 sq. ft., most recent use—barracks

Bldg. 8461, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640545
Status: Underutilized
Comment: 4172 sq. ft., most recent use—barracks

Bldg. 8462, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640546
Status: Underutilized
Comment: 4172 sq. ft., most recent use—barracks

Bldg. 8463, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640547
Status: Underutilized
Comment: 4172 sq. ft., most recent use—barracks

Bldg. 8501, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640548
Status: Underutilized
Comment: 1687 sq. ft., most recent use—office

Bldg. 8502, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640549
Status: Underutilized
Comment: 1029 sq. ft., most recent use—office

Bldg. 8540, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640550
Status: Underutilized
Comment: 4172 sq. ft., most recent use—barracks

Bldg. 8541, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640551
Status: Underutilized
Comment: 4172 sq. ft., most recent use—barracks

Bldg. 8542, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640552
Status: Underutilized
Comment: 4172 sq. ft., most recent use—barracks

Bldg. 8543, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640553
Status: Underutilized
Comment: 4172 sq. ft., most recent use—barracks

Bldg. 8544, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640554
Status: Underutilized
Comment: 4172 sq. ft., most recent use—barracks

Bldg. 8545, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640555
Status: Underutilized
Comment: 4172 sq. ft., most recent use—barracks

Bldg. 8546, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640556
Status: Underutilized
Comment: 4172 sq. ft., most recent use—barracks

Bldg. 8547, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640557
Status: Underutilized
Comment: 4172 sq. ft., most recent use—barracks

Bldg. 8548, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640558
Status: Underutilized
Comment: 4172 sq. ft., most recent use—barracks

Bldg. 8549, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219640559
Status: Underutilized
Comment: 4172 sq. ft., most recent use—barracks

Bldg. 7401, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219730236
Status: Underutilized
Comment: 1688 sq. ft., most recent use—classroom, off-site use only

Bldg. 7402, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219730237
Status: Underutilized
Comment: 1675 sq. ft., most recent use—admin/supply, off-site use only

Bldg. 7403, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219730238
Status: Underutilized
Comment: 2093 sq. ft., most recent use—admin/supply off-site use only

Bldg. 7404, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219730239
Status: Underutilized
Comment: 2093 sq. ft., most recent use—admin/supply, off-site use only

Bldg. 7405, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219730240
Status: Underutilized
Comment: 1922 sq. ft., most recent use—recreation, off-site use only

Bldg. 7406
Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number 219730241
Status: Unutilized
Comment: 1675 sq. ft., most recent use—storage, off-site use only

Bldg. 7407
Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number 219730242
Status: Unutilized
Comment: 2093 sq. ft., most recent use—admin/supply, off-site use only

Bldg. 7408
Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number 219730243
Status: Unutilized
Comment: 2093 sq. ft., most recent use—admin/supply, off-site use only

Bldg. 7412
Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number 219730244
Status: Unutilized
Comment: 1029 sq. ft., most recent use—admin., off-site use only

Bldg. 7419
Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number 219730245
Status: Unutilized
Comment: 2777 sq. ft., most recent use—classroom, off-site use only

Bldg. 7423
Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number 219730246
Status: Unutilized
Comment: 4073 sq. ft., most recent use—barracks, off-site use only

Bldg. 7424
Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number 219730247
Status: Unutilized
Comment: 4073 sq. ft., most recent use—barracks, off-site use only

Bldg. 7425
Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number 219730248
Status: Unutilized
Comment: 4073 sq. ft., most recent use—barracks, off-site use only

Bldg. 7437
Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number 219730249
Status: Unutilized
Comment: 4073 sq. ft., most recent use—barracks, off-site use only

Bldg. 7438
Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number 219730250
Status: Unutilized

Comment: 4073 sq. ft., most recent use—barracks, off-site use only

Bldg. 7453
Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number 219730251
Status: Unutilized
Comment: 1029 sq. ft., most recent use—admin., off-site use only

Bldg. 7454
Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number 219730252
Status: Unutilized
Comment: 1922 sq. ft., most recent use—dining facility, off-site use only

Bldg. 7455
Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number 219730253
Status: Unutilized
Comment: 2093 sq. ft., off-site use only

Bldg. 7456
Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number 219730254
Status: Unutilized
Comment: 2543 sq. ft., off-site use only

Bldg. 7457
Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number 219730255
Status: Unutilized
Comment: 2356 sq. ft., most recent use—dining, off-site use only

Maryland

Bldg. 370
Fort Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 219730256
Status: Unutilized
Comment: 19,583 sq. ft., most recent use—NCO club, possible asbestos/lead paint

Bldg. 2424
Fort Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 219730257
Status: Unutilized
Comment: 2284 sq. ft., most recent use—admin., possible asbestos/lead paint

Bldg. 4039
Aberdeen Proving Ground
Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 219740304
Status: Unutilized
Comment: 249 sq. ft., concrete block, presence of asbestos/lead paint, most recent use—storage

Bldg. 2446
Fort George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 219740305
Status: Unutilized
Comment: 4720 sq. ft., presence of asbestos/lead paint, most recent use—admin., off-site use only

Bldg. 2472
Fort George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 219740306
Status: Unutilized
Comment: 7670 sq. ft., presence of asbestos/lead paint, most recent use—admin., off-site use only

Bldg. 2802
Fort George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 219740307
Status: Unutilized
Comment: 1144 sq. ft., presence of asbestos/lead paint, most recent use—lab, off-site use only

Bldg. 3179
Fort George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 219740308
Status: Unutilized
Comment: 7670 sq. ft., presence of asbestos/lead paint, most recent use—admin., off-site use only

Bldg. 4700
Fort George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 219740309
Status: Unutilized
Comment: 36,619 sq. ft., presence of asbestos/lead paint, most recent use—admin., off-site use only

Bldg. 2805
Fort George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 219740351
Status: Unutilized
Comment: 2208 sq. ft., presence of asbestos/lead paint, most recent use—lab, off-site use only

Bldg. 6294
Fort George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 219810302
Status: Unutilized
Comment: 4720 sq. ft., needs rehab, presence of asbestos/lead paint, most recent use—custodial, off-site use only

Bldg. 3176
Fort George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 219810303
Status: Unutilized
Comment: 7670 sq. ft., needs rehab, presence of asbestos/lead paint, most recent use—admin., off-site use only

Bldg. 00410
Aberdeen Proving Ground
Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 219810304
Status: Unutilized
Comment: concrete, most recent use—ordnance facility

Missouri

Bldg. T599
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219230260
Status: Underutilized
Comment: 18270 sq. ft., 1-story, presence of asbestos, most recent use—storehouse, off-site use only

Bldg. T1311
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219230261
Status: Underutilized
Comment: 2740 sq. ft., 1-story, presence of asbestos, most recent use—storehouse, off-site use only

Bldg. T427
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219330299
Status: Underutilized
Comment: 10245 sq. ft., 1-story, presence of asbestos, most recent use—post office, off-site use only

Bldg. T2171
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219340212
Status: Unutilized
Comment: 1296 sq. ft., 1-story wood frame, most recent use—administrative, no handicap fixtures, lead base paint, off-site use only

Bldg. T6822
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219340219
Status: Underutilized
Comment: 4000 sq. ft., 1-story wood frame, most recent use—storage, no handicap fixtures, off-site use only

Bldg. T1364
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219420393
Status: Underutilized
Comment: 1144 sq. ft., 1-story, presence of lead base paint, most recent use—storage, off-site use only

Bldg. T408
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219420433
Status: Underutilized
Comment: 10296 sq. ft., 1-story, presence of lead base paint, most recent use—admin/gen. purpose, off-site use only

Bldg. T429
Fort Leonard Wood

Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219420439
Status: Underutilized
Comment: 2475 sq. ft., 1-story, presence of lead base paint, most recent use—admin/gen. purpose, off-site use only

Bldg. T1497
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219420441
Status: Underutilized
Comment: 4720 sq. ft., 2-story, presence of lead base paint, most recent use—admin/gen. purpose, off-site use only

Bldg. T2139
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219420446
Status: Underutilized
Comment: 3663 sq. ft., 1-story, presence of lead base paint, most recent use—admin/gen. purpose, off-site use only

Bldg. T2191
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219440334
Status: Excess
Comment: 4720 sq. ft., 2-story wood frame, off-site removal only, to be vacated 8/95, lead based paint, most recent use—barracks

Bldg. T2197
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219440335
Status: Excess
Comment: 4720 sq. ft., 2-story wood frame, off-site removal only, to be vacated 8/95, lead based paint, most recent use—barracks

Bldg. T590
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219510110
Status: Excess
Comment: 3263 sq. ft., 1-story, wood frame, most recent use—admin., to be vacated 8/95, off-site use only

Bldg. T1246
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219510111
Status: Excess
Comment: 1144 sq. ft., 1-story, wood frame, most recent use—admin., to be vacated 8/95, off-site use only

Bldg. T2385
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219510115
Status: Excess
Comment: 3158 sq. ft., 1-story, wood frame, most recent use—admin., to be vacated 8/95, off-site use only

4 Bldgs
Fort Leonard Wood
83, 85, 89 cable Street
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219710124
Status: Unutilized
Comment: 1236 sq. ft. each, needs repair, presence of asbestos, most recent use—family quarters

38 Bldgs
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Location: 1–16, 18, 20, 22, 24, 26–29, 31, 33–45 Depuy Street
Landholding Agency: Army
Property Number: 219710125
Status: Unutilized
Comment: 1083–1485 sq. ft. each, needs repair, presence of asbestos, most recent use—family quarters

14 Bldgs.
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Location: 1–5, 7, 22, 24, 26, 28, 30, 32, 34, 36 Diamond Street
Landholding Agency: Army
Property Number: 219710126
Status: Unutilized
Comment: 1083–1454 sq. ft. each, needs repair, presence of asbestos, most recent use—family quarters

4 Bldgs.
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Location: 1, 3, 5, 7 Epps Street
Landholding Agency: Army
Property Number: 219710128
Status: Unutilized
Comment: 1083 sq. ft. each, needs repair, presence of asbestos, most recent use—family quarters

14 Bldgs.
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Location: Young Street
Landholding Agency: Army
Property Number: 219710130
Status: Unutilized
Comment: 1083 sq. ft. each, needs repair, presence of asbestos, most recent use—family quarters

Bldgs. T–2340 thru T2343
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219710138
Status: Underutilized
Comment: 9276 sq. ft., recent use—storage/general purpose

Bldg 1226
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219730275
Status: Unutilized
Comment: 1600 sq. ft. presence of asbestos/lead paint, most recent use—admin., off-site use only

Bldg 1271
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219730276
Status: Unutilized
Comment: 1600 sq. ft., presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldg 1280
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219730277
Status: Unutilized
Comment: 1144 sq. ft., presence of asbestos/lead paint, most recent use—classroom, off-site use only

Bldg 1281
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219730278
Status: Unutilized
Comment: 2360 sq. ft., presence of asbestos/lead paint, most recent use—classroom, off-site use only

Bldg 1282
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219730279
Status: Unutilized
Comment: 4720 sq. ft., presence of asbestos/lead paint, most recent use—barracks, off-site use only

Bldg 1283
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219730280
Status: Unutilized
Comment: 1296 sq. ft., presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldg 1284
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219730281
Status: Unutilized
Comment: 4720 sq. ft., presence of asbestos/lead paint, most recent use—admin., off-site use only

Bldg 1285
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219730282
Status: Unutilized

Comment: 4720 sq. ft. presence of asbestos/lead paint, most recent use—barracks, off-site use only

Bldg 1286
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219730283
Status: Unutilized
Comment: 1296 sq. ft. presence of asbestos/lead paint, most recent use—admin., off-site use only

Bldg 1287
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219730284
Status: Unutilized
Comment: 4720 sq. ft. presence of asbestos/lead paint, most recent use—barracks, off-site use only

Bldg. 1288
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219730285
Status: Unutilized
Comment: 2360 sq. ft., presence of asbestos/lead paint, most recent use—dining facility, off-site use only

Bldg. 1289
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219730286
Status: Unutilized
Comment: 1144 sq. ft., presence of asbestos/lead paint, most recent use—classroom, off-site use only

Bldg. 430
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219810305
Status: Unutilized
Comment: 4100 sq. ft., presence of asbestos/lead paint, most recent use—Red Cross facility, off-site use only

Bldg. 758
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219810306
Status: Unutilized
Comment: 2400 sq. ft., presence of asbestos/lead paint, most recent use—classroom, off-site use only

Bldg. 759
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219810307
Status: Unutilized
Comment: 2400 sq. ft., presence of asbestos/lead paint, most recent use—classroom, off-site use only

Bldg. 760
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219810308
Status: Unutilized
Comment: 2400 sq. ft., presence of asbestos/lead paint, off-site use only

Bldgs. 761–766
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219810309
Status: Unutilized
Comment: 2400 sq. ft., presence of asbestos/lead paint, most recent use—classroom, off-site use only

Bldg. 1498
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219810310
Status: Unutilized
Comment: 4720 sq. ft., presence of asbestos/lead paint, most recent use—barracks, off-site use only

Bldg. 1650
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219810311
Status: Unutilized
Comment: 1676 sq. ft., presence of asbestos/lead paint, most recent use—union hall, off-site use only

Bldg. 2111
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219810312
Status: Unutilized
Comment: 1600 sq. ft., presence of asbestos/lead paint, most recent use—union hall, off-site use only

Bldg. 2170
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219810313
Status: Unutilized
Comment: 1296 sq. ft., presence of asbestos/lead paint, most recent use—admin., off-site use only

Bldg. 2204
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 3525
Status: Unutilized
Comment: 3525 sq. ft., presence of asbestos/lead paint, most recent use—admin., off-site use only

Bldg. 2225
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219810316
Status: Unutilized
Comment: 820 sq. ft., presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 2271
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21910317
Status: Unutilized
Comment: 256 sq. ft., presence of lead paint, most recent use—storage, off-site use only

Bldg. 2275
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219810318
Status: Unutilized
Comment: 225 sq. ft., presence of lead paint, most recent use—storage, off-site use only

Bldg. 2291
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219810319
Status: Unutilized
Comment: 510 sq. ft., presence of lead paint, most recent use—storage, off-site use only

Bldg. 2318
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219810322
Status: Unutilized
Comment: 9267 sq. ft., presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 2579
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219810325
Status: Unutilized
Comment: 176 sq. ft., presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 2580
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219810326
Status: Unutilized
Comment: 200 sq. ft., presence of asbestos/lead paint, most recent use—generator plant, off-site use only

Bldg. 4199
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219810327
Status: Unutilized
Comment: 2400 sq. ft., presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 6030
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000

Landholding Agency: Army
Property Number: 219810328
Status: Unutilized
Comment: 1000 sq. ft., presence of lead paint, poor condition, most recent use—storage, off-site use only

Bldg. 386
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219820163
Status: Unutilized
Comment: 4902 sq. ft., presence of asbestos/lead paint, most recent use—fire station, off-site use only

Bldg. 401
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219820164
Status: Unutilized
Comment: 9567 sq. ft., presence of asbestos/lead paint, most recent use—admin., off-site use only

Bldg. 801
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219820165
Status: Unutilized
Comment: 17012 sq. ft., presence of asbestos/lead paint, most recent use—classroom, off-site use only

Bldg. 856
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219820166
Status: Unutilized
Comment: 2400 sq. ft., presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 859
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219820167
Status: Unutilized
Comment: 2400 sq. ft., presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 1242
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219820168
Status: Unutilized
Comment: 2360 sq. ft., presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 1265
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219820169
Status: Unutilized
Comment: 2360 sq. ft., presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 1267
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219820170
Status: Unutilized
Comment: 1144 sq. ft., presence of asbestos/lead paint, most recent use—admin., off-site use only

Bldg. 1272
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219820171
Status: Unutilized
Comment: 1144 sq. ft., presence of asbestos/lead paint, most recent use—admin., off-site use only

Bldg. 1277
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219820172
Status: Unutilized
Comment: 1144 sq. ft., presence of asbestos/lead paint, most recent use—admin., off-site use only

Bldg. 2142, 2145, 2151–2153
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219820174
Status: Unutilized
Comment: 4420 sq. ft., presence of asbestos/lead paint, most recent use—barracks, off-site use only

Bldg. 2150
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219820175
Status: Unutilized
Comment: 2892 sq. ft., presence of asbestos/lead paint, most recent use—dayroom, off-site use only

Bldg. 2155
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219820176
Status: Unutilized
Comment: 1296 sq. ft., presence of asbestos/lead paint, most recent use—admin., off-site use only

Bldg. 2156, 2157, 2163, 2164
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219820177
Status: Unutilized
Comment: 4720 sq. ft., presence of asbestos/lead paint, most recent use—barracks, off-site use only

Bldg. 2165
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219820178
Status: Unutilized
Comment: 2892 sq. ft., presence of asbestos/lead paint, most recent use—dayroom, off-site use only

Bldg. 2167
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219820179
Status: Unutilized
Comment: 1296 sq. ft., presence of asbestos/lead paint, most recent use—admin., off-site use only

Bldg. 2169, 2181, 2182, 2183
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219820180
Status: Unutilized
Comment: 4720 sq. ft., presence of asbestos/lead paint, most recent use—barracks, off-site use only

Bldg. 2186
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219820181
Status: Unutilized
Comment: 1296 sq. ft., presence of asbestos/lead paint, most recent use—admin., off-site use only

Bldg. 2187
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219820182
Status: Unutilized
Comment: 2892 sq. ft., presence of asbestos/lead paint, most recent use—dayroom, off-site use only

Bldg. 2192, 2196, 2198
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219820183
Status: Unutilized
Comment: 4720 sq. ft., presence of asbestos/lead paint, most recent use—barracks, off-site use only

Bldg. 2304, 2306
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219820184
Status: Unutilized
Comment: 1625 sq. ft., presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 12651
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219820186

Status: Unutilized
Comment: 240 sq. ft., presence of asbestos/lead paint, off-site use only

Nevada

Bldgs. 00425–00449
Hawthorne Army Ammunition Plant
Schweer Drive Housing Area
Hawthorne Co: Mineral NV 89415–
Landholding Agency: Army
Property Number: 219011946
Status: Unutilized
Comment: 1310–1640 sq. ft., one floor residential, semi/wood construction, good condition

New Jersey

Bldg. 22
Armament R&D Engineering Center
Picatinny Arsenal Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 219740311
Status: Unutilized
Comment: 4220 sq. ft., needs rehab, most recent use—machine shop, off-site use only

Bldg. 178
Armament R&D Engineering Center
Picatinny Arsenal Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 219740312
Status: Unutilized
Comment: 2067 sq. ft., most recent use—research, off-site use only

Bldg. 213
Armament R&D Engineering Center
Picatinny Arsenal Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 219740313
Status: Unutilized
Comment: 915 sq. ft., most recent use—explosives research, off-site use only

Bldg. 642
Armament R&D Engineering Center
Picatinny Arsenal Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 219740314
Status: Unutilized
Comment: 280 sq. ft., most recent use—explosives testing, off-site use only

Bldg. 732
Armament R&D Engineering Center
Picatinny Arsenal Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 219740315
Status: Unutilized
Comment: 9077 sq. ft., needs rehab, most recent use—storage, off-site use only

Bldg. 975
Armament R&D Engineering Center
Picatinny Arsenal Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 219740316
Status: Unutilized
Comment: 1800 sq. ft., most recent use—admin., off-site use only

Bldg. 1222D
Armament R&D Engineering Center
Picatinny Arsenal Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 219740317
Status: Unutilized
Comment: 36 sq. ft., most recent use—storage, off-site use only

Bldg. 1604
Armament R&D Engineering Center
Picatinny Arsenal Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 219740321
Status: Unutilized
Comment: 8519 sq. ft., most recent use—loading facility, off-site use only

Bldg. 3117
Armament R&D Engineering Center
Picatinny Arsenal Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 219740322
Status: Unutilized
Comment: 100 sq. ft., most recent use—sentry station, off-site use only

Bldg. 3201
Armament R&D Engineering Center
Picatinny Arsenal Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 219740324
Status: Unutilized
Comment: 1360 sq. ft., most recent use—water treatment plant, off-site use only

Bldg. 3202
Armament R&D Engineering Center
Picatinny Arsenal Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 219740325
Status: Unutilized
Comment: 96 sq. ft., most recent use—snack bar, off-site use only

Bldg. 3219
Armament R&D Engineering Center
Picatinny Arsenal Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 219740326
Status: Unutilized
Comment: 288 sq. ft., most recent use—snack bar, off-site use only

New Mexico

Bldg. 32980
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 219330340
Status: Unutilized
Comment: 451 sq. ft., 1-story, presence of asbestos, most recent use—admin., off-site use only

Bldg. 28267
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 219330351
Status: Unutilized
Comment: 617 sq. ft., 1-story, presence of asbestos, most recent use—storage, off-site use only

Bldg. 29195
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 219330352
Status: Unutilized
Comment: 56 sq. ft., 1-story, presence of asbestos, most recent use—storage, off-site use only

Bldg. 34219
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 219330353
Status: Unutilized
Comment: 720 sq. ft., 1-story, presence of asbestos, most recent use—storage, off-site use only

Bldg. 19242
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 219330357
Status: Unutilized
Comment: 450 sq. ft., 1-story, presence of asbestos, most recent use—maintenance shop, off-site use only

Bldg. 34227
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 219330358
Status: Unutilized
Comment: 675 sq. ft., 1-story, presence of asbestos, most recent use—maintenance shop, off-site use only

Bldg. 1834
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 219330366
Status: Unutilized
Comment: 150 sq. ft., 1-story, presence of asbestos, most recent use—animal kennel, off-site use only

Bldg. 29196
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 219330369
Status: Unutilized
Comment: 38 sq. ft., 1-story, presence of asbestos, most recent use—power plant bldg., off-site use only

Bldg. 30774
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 219330370
Status: Unutilized
Comment: 176 sq. ft., 1-story, presence of asbestos, off-site use only

Bldg. 33136
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 219330371
Status: Unutilized
Comment: 18 sq. ft., off-site use only

Bldg. 419
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 219730301
Status: Unutilized
Comment: 4859 sq. ft., presence of asbestos, most recent use—storehouse, off-site use only

4 units—Ravenna
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 219740327
Status: Unutilized
Comment: 1126 sq. ft., needs rehab, presence of asbestos, most recent use—housing, off-site use only

17 units
White Sands Missile Range
Picatinny, Dart, Hawk, LaCrosse
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army

Property Number: 219740328
Status: Unutilized
Comment: 1207 sq. ft., needs rehab, presence of asbestos, most recent use—housing, off-site use only

2 units
White Sands Missile Range
Picatinny
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 219740329
Status: Unutilized
Comment: 1264 sq. ft., needs rehab, presence of asbestos, most recent use—housing, off-site use only

30 units
White Sands Missile Range
Hawk, LaCrosse, Ravenna
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 219740330
Status: Unutilized
Comment: 1426 sq. ft., needs rehab, presence of asbestos, most recent use—housing, off-site use only

5 units
White Sands Missile Range
Dart, Hawk
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 219740331
Status: Unutilized
Comment: 2080 sq. ft., needs rehab, presence of asbestos, most recent use—housing, off-site use only

3 units
White Sands Missile Range
Dart, Hawk
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 219740332
Status: Unutilized
Comment: 2220 sq. ft., needs rehab, presence of asbestos, most recent use—housing, off-site use only

New York

Bldgs. 2400, 2402, 2404
Stewart Army Subpost
New Windsor Co: Orange NY 12553–
Landholding Agency: Army
Property Number: 219710131
Status: Unutilized
Comment: various sq. ft., most recent use—storage/dog kennel, need repairs, off-site use only

Bldgs. 2308, 2310
Stewart Army Subpost
New Windsor Co: Orange NY 12553–
Landholding Agency: Army
Property Number: 219710132
Status: Unutilized
Comment: 425 & 1834 sq. ft., most recent use—gas pump house/office/motor pool, need repairs, off-site use only

Bldgs. 1800, 1802, 1818
Stewart Army Subpost
New Windsor Co: Orange NY 12553–
Landholding Agency: Army
Property Number: 219710133
Status: Unutilized
Comment: approx. 6500 sq. ft., most recent use—barracks/storage, needs repairs, off-site use only

Bldgs. 2612, 2614, 2616
Stewart Army Subpost
New Windsor Co: Orange NY 12553–
Landholding Agency: Army
Property Number: 219710134
Status: Unutilized
Comment: 10052 sq. ft., most recent use—family housing, need repairs, off-site use only

North Carolina

Building 8–3641
Fort Bragg
Fort Bragg Co: Cumberland NC 28307–
Landholding Agency: Army
Property Number: 219710025
Status: Unutilized
Comment: 960 sq. ft., aluminum trailer, needs repair, possible asbestos and lead paint, off-site use only

Building A–3672
Fort Bragg
Fort Bragg Co: Cumberland NC 28307–
Landholding Agency: Army
Property Number: 219710026
Status: Unutilized
Comment: 30 sq. ft., guard shack, needs repair, possible asbestos and lead paint, off-site use only

Building 1–3151
Fort Bragg
Fort Bragg Co: Cumberland NC 28307–
Landholding Agency: Army
Property Number: 219740310
Status: Excess
Comment: 481 sq. ft., presence of asbestos/lead paint, most recent use—admin., off-site use only

North Dakota

Bldg. 1101
Stanley R. Mickelsen Safeguard Complex
Nekoma co: Ramsey ND 58355–
Landholding Agency: Army
Property Number: 219640213
Status: Unutilized
Comment: 2259 sq. ft., earth covered concrete bldg., needs rehab, off-site use only

Bldg. 1110
Stanley R. Mickelsen Safeguard Complex
Nekoma Co: Ramsey ND 58355–
Landholding Agency: Army
Property Number: 219640214
Status: Unutilized
Comment: 11956 sq. ft., concrete, needs rehab, off-site use only

Bldg. 2101
Stanley R. Mickelsen Safeguard Complex
Nekoma Co: Cavalier ND 58249–
Landholding Agency: Army
Property Number: 219640215
Status: Unutilized
Comment: 2259 sq. ft., earth covered concrete bldg., needs rehab, off-site use only

Bldg. 2110
Stanley R. Mickelsen Safeguard Complex
Nekoma Co: Cavalier ND 58249–
Landholding Agency: Army
Property Number: 219640216
Status: Unutilized
Comment: 11956 sq. ft., concrete, needs rehab, off-site use only

Bldg. 4101
Stanley R. Mickelsen Safeguard Complex
Nekoma Co: Walsh ND 58355–
Landholding Agency: Army
Property Number: 219640217
Status: Unutilized
Comment: 2259 sq. ft., earth covered concrete bldg., needs rehab, off-site use only

Bldg. 4110
Stanley R. Mickelsen Safeguard Complex
Nekoma Co: Walsh ND 58355–
Landholding Agency: Army
Property Number: 219640218
Status: Unutilized
Comment: 11956 sq. ft., concrete, needs rehab, off-site use only

Ohio

15 Units
Military Family Housing
Ravenna Army Ammunition Plant
Ravenna Co: Portage OH 44266–9297
Lanholding Agency: Army
Property Number: 219230354
Status: Excess
Comment: 3 bedroom (7 units)—1,824 sq. ft. each, 4 bedroom 8 units)—2,430 sq. ft. each, 2-story wood frame, presence of asbestos, off-site use only

7 Units
Military Family Housing Garages
Ravenna Army Ammunition Plant
Ravenna Co: Portage OH 44266–9297
Landholding Agency: Army
Property Number: 219230355
Status: Excess
Comment: 1–4 stall garage and 6–3 stall garages, presence of asbestos, off-site use only

Oklahoma

Bldg. T–2606
Fort Sill
2606 Currie Road
Lawton Co: Comanche OK 73505–5100
Lanholding Agency: Army
Property Number: 219011273
Status: Unutilized
Comment: 2722 sq. ft., possible asbestos, one floor wood frame; most recent use—Headquarters Bldg

Bldg. T–838, Fort Sill
838 Macomb Road
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219220609
Status: Unutilized
Comment: 151 sq. ft., wood frame, 1 story, off-site removal only, most recent use—vet facility (quarantine stable)

Bldg. T–954, Fort Sill
954 Quinette Road
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219240659
Status: Unutilized
Comment: 3571 sq. ft., 1 story wood frame, needs rehab, off-site use only, most recent use—motor repair shop

Bldg. T–1050, Fort Sill
1050 Quinette Road
Lawton Co: Comanche OK 73505–5100
Landholding Agency: Army
Property Number: 219240660
Status: Unutilized
Comment: 6240 sq. ft., 2 story wood frame, needs rehab, off-site use only, most recent use—barracks

Bldg. T–1051, Fort Sill
1051 Quinette Road
Lawton Co: Comanche OK 73503–5100

Landholding Agency: Army
Property Number: 219240661
Status: Unutilized
Comment: 6240 sq. ft., 2 story wood frame, needs rehab, off-site use only, most recent use—barracks

Bldg. T–2740, Fort Sill
2740 Miner Road
Lawton Co: Comanche OK 73505–5100
Landholding Agency: Army
Property Number: 219240669
Status: Unutilized
Comment: 8210 sq. ft., 2 story wood frame, needs rehab, off-site use only, most recent use—enlisted barracks

Bldg. T–4050 Fort Sill
4050 Pitman Street
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219240676
Status: Unutilized
Comment: 3177 sq. ft., 1 story wood frame, needs rehab, off-site use only, most recent use—storage

Bldg. P–3022 Fort Sill
3032 Haskins Road
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219240678
Status: Unutilized
Comment: 101 sq. ft., 1 story wood frame, needs rehab, off-site use only, most recent use—general storehouse

Bldg. T–3325, Fort Sill
3325 Naylor Road
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219240681
Status: Unutilized
Comment: 8832 sq. ft., 1 story wood frame, needs rehab, off-site use only, most recent use—warehouse

Bldg. P–2610, Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219330372
Status: Unutilized
Comment: 512 sq. ft., 1-story, possible asbestos, most recent use—classroom, off-site use only

Bldg. T1652, Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219330380
Status: Unutilized
Comment: 1505 sq. ft., 1-story wood, possible asbestos, most recent use—storage, off-site use only

Bldg. T2705, Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219330384
Status: Unutilized
Comment: 1601 sq. ft., 2-story wood, possible asbestos, most recent use—storage, off-site use only

Bldg. T3026, Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219330392
Status: Unutilized
Comment: 2454 sq. ft., 1-story, possible asbestos, most recent use—storage, off-site use only

Bldg. T5637, Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219330419
Status: Unutilized
Comment: 1606 sq. ft., 1 story, possible asbestos, most recent use—storage, off-site use only

Bldg. T–4226
Fort Sill
Lawton Co: Comanche OK 73503–
Landholding Agency: Army
Property Number: 219440384
Status: Unutilized
Comment: 114 sq. ft., 1-story wood frame, possible asbestos and lead paint, most recent use—storage, off-site use only

Bldg. P–1015, Fort Sill
Lawton Co: Comanche OK 73501–5100
Landholding Agency: Army
Property Number: 219520197
Status: Unutilized
Comment: 15402 sq, ft., 1-story, most recent use—storage, off-site use only

Bldg. T–2648, Fort Sill
2648 Tacy Street
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219540022
Status: Excess
Comment: 9407 sq. ft., 1 story wood frame, possible asbestos/lead paint, off-site removal only, most recent use—general purpose warehouse

Bldg. T–2649, Fort Sill
2649 Tacy Street
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219540024
Status: Excess
Comment: 9374 sq. ft., 1 story wood frame, possible asbestos/lead paint, off-site removal only, most recent use—general storehouse

Bldg. T–4036, Fort Sill
4036 Currie Road
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219540034
Status: Excess
Comment: 4532 sq. ft., 1 story wood frame, possible asbestos/lead paint, off-site removal only, most recent use—classroom

Bldg. P–366, Fort Sill
Lawton Co: Comanche OK 73503
Landholding Agency: Army
Property Number: 219610740
Status: Unutilized
Comment: 482 sq. ft., possible asbestos, most recent use—storage, off-site use only

Bldg. P–1700
Fort Sill
Lawton Co: Comanche OK 73503–
Landholding Agency: Army
Property Number: 219620707
Status: Unutilized
Comment: 7574 sq. ft., most recent use—maint. show/office, possible asbestos/lead paint, off-site use only

Building T–598
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219710029
Status: Unutilized
Comment: 744 sq. ft., possible asbestos and leadpaint, most recent use—storage, off-site use only

Building T–1601
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219710032
Status: Unutilized
Comment: 5,258 sq. ft., possible asbestos and leadpaint, most recent use—chapel, off-site use only

Building P–1800
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219710033
Status: Unutilized
Comment: 2,545 sq. ft., possible asbestos and leadpaint, most recent use—military equipment, off-site use only

Building P–1806
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219710035
Status: Unutilized
Comment: 44 sq. ft., possible asbestos and leadpaint, most recent use—utility, off-site only

Building T–1960
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219710037
Status: Unutilized
Comment: 10,309 sq. ft., possible asbestos and leadpaint, most recent use—storage, off-site use only

Building T–1961
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219710038
Status: Unutilized
Comment: 7,128 sq. ft., possible asbestos and leadpaint, most recent use—storage, off-site use only

Building T–2035
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219710039
Status: Unutilized
Comment: 18,157 sq. ft., possible asbestos and lead paint, most recent use—storage, off-site use only

Building T–2181
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219710040
Status: Unutilized
Comment: 2,805 sq. ft., possible asbestos and lead paint, most recent use—office, off-site use only

Building T–2426
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219710041
Status: Unutilized

Comment: 8,876 sq. ft., possible asbestos and lead paint, most recent use—office/storage, off-site use only

Building T–2451
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219710043
Status: Unutilized
Comment: 9,470 sq. ft., possible asbestos and lead paint, most recent use—storage, off-site use only

Building T–2607
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219710044
Status: Unutilized
Comment: 6,743 sq. ft., possible asbestos and lead paint, most recent use—classroom, off-site use only

Building T–2608
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219710045
Status: Unutilized
Comment: 6,737 sq. ft., possible asbestos and lead paint, most recent use—classroom, off-site use only

Building T–2952
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219710047
Status: Unutilized
Comment: 4,327 sq. ft., possible asbestos and lead paint, most recent use—motor repair shop, off-site use only

Building T–2953
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219710048
Status: Unutilized
Comment: 114 sq. ft., possible asbestos and lead paint, most recent use—storehouse, off-site use only

Building T–3152
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219710051
Status: Unutilized
Comment: 3,151 sq. ft., possible asbestos and lead paint, most recent use—storage, off-site use only

Building T–3153
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219710052
Status: Unutilized
Comment: 3,151 sq. ft., possible asbestos and lead paint, most recent use—storage, off-site use only

Building T–3154
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219710053
Status: Unutilized
Comment: 3,151 sq. ft., possible asbestos and lead paint, most recent use—storage, off-site use only

Building T–3155
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219710054
Status: Unutilized
Comment: 3,151 sq. ft., possible asbestos and lead paint, most recent use—repair shop, off-site use only

Building T–4009
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219710056
Status: Unutilized
Comment: 2,817 sq. ft., possible asbestos and lead paint, most recent use—classroom, off-site use only

Building T–4010
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219710057
Status: Unutilized
Comment: 2,815 sq. ft., possible asbestos and lead paint, most recent use—office, off-site use only

Building T–4011
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219710058
Status: Unutilized
Comment: 9,456 sq. ft., possible asbestos and lead paint, most recent use—storage, off-site use only

Building T–4026
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219710059
Status: Unutilized
Comment: 9,597 sq. ft., possible asbestos and leadpaint, most recent use—storage, off-site use only

Building T–4030
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219710060
Status: Unutilized
Comment: 9,618 sq. ft., possible asbestos and leadpaint, most recent use—storage, off-site use only

Building T–4068
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219710061
Status: Unutilized
Comment: 2,750 sq. ft. possible asbestos and leadpaint, most recent use—office, off-site use only

Building T–4069
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219710062
Status: Unutilized
Comment: 2,750 sq. ft., possible asbestos and leadpaint, most recent use—office, off-site use only

Building T–4070
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219710063
Status: Unutilized
Comment: 2,750 sq. ft., possible asbestos and leadpaint, most recent use—office, off-site use only

Building P–5042
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219710066
Status: Unutilized
Comment: 119 sq. ft., possible asbestos and leadpaint, most recent use—heatplant, off-site use only

Building T–5093
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219710067
Status: Unutilized
Comment: 9,361 sq. ft., possible asbestos and leadpaint, most recent use—storage, off-site use only

6 Buildings
Fort Sill
Lawton Co: Comanche OK 73503–5100
Location: P–6449, S–6451, T–6452, P–6460, P–6463, S–6450
Landholding Agency: Army
Property Number: 219710085
Status: Unutilized
Comment: various sq. ft., possible asbestos and leadpaint, most recent use—range support, off-site use only

4 Buildings
Fort Sill
Lawton Co: Comanche OK 73503–5100
Location: T–6465, T–6466, T–6467, T–6468
Landholding Agency: Army
Property Number: 219710086
Status: Unutilized
Comment: various sq. ft., possible asbestos and leadpaint, most recent use—range support, off site use only

Building P–6539
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219710087
Status: Unutilized
Comment: 1,483 sq. ft., possible asbestos and leadpaint, most recent use—office, off-site use only

Bldg. T–2751
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219720209
Status: Unutilized
Comment: 19510 sq. ft., most recent use—admin., possible asbestos/lead paint, off-site use only

Bldg. T–205
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730343
Status: Unutilized
Comment: 95 sq. ft., possible asbestos/lead paint, most recent use—waiting shelter, off-site use only

Bldg. T–208

Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730344
Status: Unutilized
Comment: 20525 sq. ft., possible asbestos/lead paint, most recent use—training center, off-site use only

Bldg. T–210
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730345
Status: Unutilized
Comment: 19,049 sq. ft., possible asbestos/lead paint, most recent use—admin., off-site use only

Bldg. T–214
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730346
Status: Unutilized
Comment: 6332 sq. ft., possible asbestos/lead paint, most recent use—training center, off-site use only.

Bldgs. T–215, T–216
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730347
Status: Unutilized
Comment: 6300 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only.

Bldg. T–217
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730348
Status: Unutilized
Comment: 6394 sq. ft., possible asbestos/lead paint, most recent use—training center, off-site use only.

Bldgs. T–219, T–220
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730349
Status: Unutilized
Comment: 152 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only.

Bldg. T–810
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730350
Status: Unutilized
Comment: 7205 sq. ft., possible asbestos/lead paint, most recent use—hay storage, off-site use only.

Bldgs. T–837, T–839
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730351
Status: Unutilized
Comment: approx. 100 sq. ft., each, possible asbestos/lead paint, most recent use—storage, off-site use only.

Bldg. P–902
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730352
Status: Unutilized
Comment: 101 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only.

Bldg. P–934
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730353
Status: Unutilized
Comment: 402 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only.

Bldg. P–936
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730354
Status: Unutilized
Comment: 342 sq. ft., possible asbestos/lead paint, most recent use—office, off-site use only.

Bldg. S–956
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730355
Status: Unutilized
Comment: 1602 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only.

Bldg. T–1177
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730356
Status: Unutilized
Comment: 183 sq. ft., possible asbestos/lead paint, most recent use—snack bar, off-site use only.

Bldgs. T–1468, T–1469
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730357
Status: Unutilized
Comment: 114 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only.

Bldg. T–1470
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730358
Status: Unutilized
Comment: 3120 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only.

Bldg. T–1508
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730359
Status: Unutilized
Comment: 3176 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only.

Bldg. T–1940
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730360
Status: Unutilized
Comment: 1400 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only.

Bldg. T–1944
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730361
Status: Unutilized
Comment: 449 sq. ft., possible asbestos/lead paint, off-site use only

Bldgs. T–1954, T–2022
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730362
Status: Unutilized
Comment: approx. 100 sq. ft., each, possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. T–2180
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730363
Status: Unutilized
Comment: possible asbestos/lead paint, most recent use—vehicle maint. facility, off-site use only

Bldg. T–2184
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730364
Status: Unutilized
Comment: 454 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. T–2185
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730365
Status: Unutilized
Comment: 151 sq. ft., possible asbestos/lead paint, most recent use— fuel storage, off-site use only

Bldgs. T–2186, T–2188, T–2189
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730366
Status: Unutilized
Comment: 1656—3583 sq. ft., possible asbestos/lead paint, most recent use-vehicle maint. shop, off-site use only

Bldg. T–2187
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730367
Status: Unutilized
Comment: 1673 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. T–2209
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730368
Status: Unutilized
Comment: 1257 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldgs. T–2240, T–2241
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730369
Status: Unutilized
Comment: approx. 9500 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldgs. T–2262, T–2263
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730370
Status: Unutilized
Comment: approx. 3100 sq. ft., possible asbestos/lead paint, most recent use—maint. shop, off-site use only

Bldgs. T–2271, T–2272
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730371
Status: Unutilized
Comment: 232 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldgs. T–2291 thru T–2296
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730372
Status: Unutilized
Comment: 400 sq. ft., each, possible asbestos/lead paint, most recent use—storage, off-site use only

5 Bldgs.
Fort Sill
T–2300, T–2301, T–2303, T–2306, T–2307
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730373
Status: Unutilized
Comment: various sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. T–2406
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730374
Status: Unutilized
Comment: 114 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

4 Bldgs.
Fort Sill
#T–2427, T–2431, T–2433, T–2449
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730375
Status: Unutilized
Comment: various sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

3 Bldgs.
Fort Sill
#T–2430, T–2432, T–2435
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730376
Status: Unutilized
Comment: approx. 8900 sq. ft., possible asbestos/lead paint, most recent use—office, off-site use only

Bldg. T–2434
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730377
Status: Unutilized
Comment: 8997 sq. ft., possible asbestos/lead paint, most recent use—vehicle maint. shop, off-site use only

Bldg. T–2606
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730378
Status: Unutilized
Comment: 3850 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. T–2746
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730379
Status: Unutilized
Comment: 4105 sq. ft., possible asbestos/lead paint, most recent use—barracks, off-site use only

Bldgs. T–2800, T–2809, T–2810
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730380
Status: Unutilized
Comment: approx. 19,000 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. T–2922
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730381
Status: Unutilized
Comment: 3842 sq. ft., possible asbestos/lead paint, most recent use—chapel, off-site use only

Bldgs. T–2963, T–2964, T–2965
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730382
Status: Unutilized
Comment: approx. 3000 sq. ft., possible asbestos/lead paint, most recent use—maint. shop, off-site use only

Bldgs. T–3001, T–3006
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730383
Status: Unutilized
Comment: approx. 9300 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. T–3025
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730384
Status: Unutilized
Comment: 5259 sq. ft., possible asbestos/lead paint, most recent use—museum, off-site use only

Bldg. T–3314
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730385
Status: Unutilized
Comment: 229 sq. ft., possible asbestos/lead paint, most recent use—office, off-site use only

Bldgs. T–3318, T–3324, T–3327
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730386
Status: Unutilized
Comment: 8832–9048 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. T–3323
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730387
Status: Unutilized
Comment: 8832 sq. ft., possible asbestos/lead paint, most recent use—office, off-site use only

Bldg. T–3328
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730388
Status: Unutilized
Comment: 9030 sq. ft., possible asbestos/lead paint, most recent use—refuse, off-site use only

Bldgs. T–4021, T–4022
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730389
Status: Unutilized
Comment: 442–869 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. T–4065
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730390
Status: Unutilized
Comment: 3145 sq. ft., possible asbestos/lead paint, most recent use—maint. shop, off-site use only

Bldg. T–4067
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730391
Status: Unutilized
Comment: 1032 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. T–4281
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730392
Status: Unutilized
Comment: 9405 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldgs. T–4401, T–4402
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730393

Status: Unutilized
Comment: 2260 sq. ft., possible asbestos/lead paint, most recent use—office, off-site use only

5 Bldgs.
Fort Sill
#T–4403 thru T–4406, T–4408
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730394
Status: Unutilized
Comment: 2263 sq. ft., possible asbestos/lead paint, most recent use—barracks, off-site use only

Bldg. T–4407
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730395
Status: Unutilized
Comment: 3070 sq. ft., possible asbestos/lead paint, most recent use—dining facility, off-site use only

4 Bldgs.
Fort Sill
#T–4410, T–4414, T–4415, T–4418
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730396
Status: Unutilized
Comment: 1311 sq. ft., possible asbestos/lead paint, most recent use—office, off-site use only

5 Bldgs.
Fort Sill
#T–4411 thru T–4413, T–4416 thru T–4417
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730397
Status: Unutilized
Comment: 1244 sq. ft., possible asbestos/lead paint, most recent use—showers, off-site use only

Bldg. T–4421
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730398
Status: Unutilized
Comment: 3070 sq. ft., possible asbestos/lead paint, most recent use—dining, off-site use only

10 Bldgs.
Fort Sill
#T–4422 thru T–4427, T–4431 thru T–4434
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730399
Status: Unutilized
Comment: 2263 sq. ft., possible asbestos/lead paint, most recent use—barracks, off-site use only

6 Bldgs.
Fort Sill
Lawton Co: Comanche OK 73503–5100
Location: #T–4436, T–4440, T–4444, T–4445, T–4448, T–4449
Landholding Agency: Army
Property Number: 219730400
Status: Unutilized
Comment: 1311–2263 sq. ft., possible asbestos/lead paint, most recent use—office, off-site use only

5 Bldgs.
Fort Sill
Lawton Co: Comanche OK 73503–5100
Location: #T–4441, T–4442, T–4443, T–4446, T–4447
Landholding Agency: Army
Property Number: 219730401
Status: Unutilized
Comment: 1244 sq. ft., possible asbestos/lead paint, most recent use—showers, off-site use only

3 Bldgs.
Fort Sill
Lawton Co: Comanche OK 73503–5100
Location: #T–4451, T–4460, T–4481
Landholding Agency: Army
Property Number: 219730402
Status: Unutilized
Comment: various sq. ft., possible asbestos/lead paint, most recent use—dining, off-site use only

12 Bldgs.
Fort Sill
Lawton Co: Comanche OK 73503–5100
Location: #T–4454, T–4455, T–4457 T–4462, T–4464, T–4465, T–4466, T–4482, T–4483, T–4484, T4485, T4486
Landholding Agency: Army
Property Number: 219730403
Status: Unutilized
Comment: 2263 sq. ft., possible asbestos/lead paint, most recent use—barracks, off-site use only

Bldgs. T–4461, T–4479
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730404
Status: Unutilized
Comment: 2265 sq. ft., possible asbestos/lead paint, most recent use—dayroom, off-site use only

5 Bldgs.
Fort Sill
Lawton Co: Comanche OK 73503–5100
Location: #T–4469, T–4470, T–4475, T–4478, T–4480
Landholding Agency: Army
Property Number: 219730405
Status: Unutilized
Comment: 1311–2265 sq. ft., possible asbestos/lead paint, most recent use—office, off-site use only

4 Bldgs.
Fort Sill
Lawton Co: Comanche OK 73503–5100
Location: #T–4471, T–4472, T–4473, T–4477
Landholding Agency: Army
Property Number: 219730406
Status: Unutilized
Comment: approx. 1244 sq. ft., possible asbestos/lead paint, most recent use—showers, off-site use only

Bldg. T–4707
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730407
Status: Unutilized
Comment: 160 sq. ft., possible asbestos/lead paint, most recent use—waiting shelter, off-site use only

Bldg. T–5005
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730408
Status: Unutilized
Comment: 3206 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. T–5041
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730409
Status: Unutilized
Comment: 763 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldgs. T–5044, T–5045
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730410
Status: Unutilized
Comment: 1798/1806 sq. ft., possible asbestos/lead paint, most recent use—class rooms, off-site use only

4 Bldgs.
Fort Sill
Lawton Co: Comanche OK 73503–5100
Location: #T–5046, T–5047, T–5048, T–5049
Landholding Agency: Army
Property Number: 219730411
Status: Unutilized
Comment: various sq. ft., possible asbestos/lead paint, most recent use—office, off-site use only

Bldg. T–5094
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730412
Status: Unutilized
Comment: 3204 sq. ft., possible asbestos/lead paint, most recent use—maint. shop, off-site use only

Bldg. T–5095
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730413
Status: Unutilized
Comment: 3223 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. T–5420
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730414
Status: Unutilized
Comment: 189 sq. ft., possible asbestos/lead paint, most recent use—fuel storage, off-site use only

Bldg. T–5595
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730415
Status: Unutilized
Comment: 695 sq. ft., possible asbestos/lead paint, most recent use—office, off-site use only

Bldg. T–5639
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730416

Status: Unutilized
Comment: 10,720 sq. ft., possible asbestos/lead paint, most recent use—office, off-site use only

Bldgs. T–7290, T–7291
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730417
Status: Unutilized
Comment: 224/840 sq. ft., possible asbestos/lead paint, most recent use—kennel, off-site use only

Bldg. T–7701, T–7703
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730418
Status: Unutilized
Comment: 1706/1650 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. T–7775
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730419
Status: Unutilized
Comment: 1452 sq. ft., possible asbestos/lead paint, most recent use—private club, off-site use only

Bldg. P–901
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219740334
Status: Unutilized
Comment: 101 sq. ft., concrete, most recent use—storage, off-site use only

Bldg. P841
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219810353
Status: Unutilized
Comment: 192 sq. ft., possible asbestos/lead paint, most recent use—dispatch, off-site use only

Bldg. S955
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219810354
Status: Unutilized
Comment: 854 sq. ft., possible asbestos/lead paint, most recent use—training, off-site use only

Bldg. P1438
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219810355
Status: Unutilized
Comment: 1410 sq. ft., possible asbestos/lead paint, most recent use—clubhouse, off-site use only

Bldg. T4052
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219810356
Status: Unutilized
Comment: 1650 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 4463
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219810357
Status: Unutilized
Comment: 2262 sq. ft., possible asbestos/lead paint, most recent use—office, off-site use only

Bldg. S–4913
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219810358
Status: Unutilized
Comment: 82 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. P–5028
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219810359
Status: Unutilized
Comment: 23 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. S–5204
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219810360
Status: Unutilized
Comment: 3107 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. S–5205
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219810361
Status: Unutilized
Comment: 1440 sq. ft., possible asbestos/lead paint, most recent use—office, off-site use only

Bldg. S–5206
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219810362
Status: Unutilized
Comment: 1440 sq. ft., possible asbestos/lead paint, most recent use—office, off-site use only

Bldg. S–6020
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219810363
Status: Unutilized
Comment: 104 sq. ft., possible asbestos/lead paint, most recent use—shelter, off-site use only

Bldg. S–6049
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219810364
Status: Unutilized
Comment: 104 sq. ft., possible asbestos/lead paint, most recent use—shelter, off-site use only

Pennsylvania

Bldg. T–3–52
Fort Indiantown Gap
Annville Co: Lebanon PA 17003–5000
Landholding Agency: Army
Property Number 219740335
Status: Unutilized
Comment: 2290 sq. ft., most recent use—dining, off-site use only

Bldg. T–3–86
Fort Indiantown Gap
Annville Co: Lebanon PA 17003–5000
Landholding Agency: Army
Property Number 219740336
Status: Unutilized
Comment: 4720 sq. ft., most recent use—barracks, off-site use only

Bldg. T–3–87
Fort Indiantown Gap
Annville Co: Lebanon PA 17003–5000
Landholding Agency: Army
Property Number 219740337
Status: Unutilized
Comment: 1144 sq. ft., most recent use—classroom, off-site use only

Bldg. T–4–3
Fort Indiantown Gap
Annville Co: Lebanon PA 17003–5000
Landholding Agency: Army
Property Number 219740338
Status: Unutilized
Comment: 1750 sq. ft., most recent use—admin., off-site use only

South Carolina

Bldg. 5412
Fort Jackson
Fort Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number 219510139
Status: Excess
Comment: 3900 sq. ft., 1-story, wood frame, needs rehab, most recent use—admin., off-site use only

Bldg. 3499
Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number 219730310
Status: Unutilized
Comment: 3724 sq. ft., needs repair, most recent use—admin.

Bldg. 5418
Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number 219730312
Status: Unutilized
Comment: 3900 sq. ft., needs repair, most recent use—admin.

Bldg. 2411
Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number 219820187
Status: Unutilized
Comment: 2160 sq. ft., needs repair, most recent use—admin.

Bldg. 3605
Fort Jackson
Fort Jackson Co: Richland SC 29207
Landholding Agency: Army
Property Number 219820188
Status: Unutilized
Comment: 711 sq. ft., needs repair, most recent use—storage

Texas

Bldg. P–3824, Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number 219220398
Status: Unutilized
Comment: 2232 sq. ft., 1-story concrete structure, within National Landmark Historic District, off-site removal only

Bldg. P–377, Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number 219330444
Status: Unutilized
Comment: 74 sq. ft., 1-story brick, needs rehab, most recent use—scale house, located in National Historical District, off-site use only

Bldg. T–5901
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number 219330486
Status: Unutilized
Comment: 742 sq. ft., 1-story wood frame, most recent use—admin. off-site use only

Bldg. 4480, Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number 219410322
Status: Unutilized
Comment: 2160 sq. ft., 1-story, most recent use—storage, off-site use only

Bldg. P–452
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number 219440449
Status: Excess
Comment: 600 sq. ft., 1-story stucco frame, lead paint, off-site removal only, most recent use—bath house

Bldg. P–6615
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number 219440454
Status: Excess
Comment: 400 sq. ft., 1 story concrete frame, off-site removal only, most recent use—detached garage

Bldg. 4201, Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 219520201
Status: Unutilized
Comment: 900 sq. ft., 1-story, off-site use only

Bldg. 4202, Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 219520202
Status: Unutilized
Comment: 5400 sq. ft., 1-story, most recent use—storage, off-site use only

Bldg. P–1030
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219520203
Status: Excess
Comment: 8212 sq. ft., 1-story, most recent use—storage, presence of asbestos & lead base paint, located in Historic District, off-site use only

Bldg. P–197
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219640220
Status: Unutilized
Comment: 13819 sq. ft., presence of asbestos/lead paint, most recent use—admin., off-site use only

Bldg. T–230
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219640221
Status: Unutilized
Comment: 18102 sq. ft., presence of asbestos/lead paint, most recent use—printing plant and shop, off-site use only

Bldg. P–606B
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219640223
Status: Unutilized
Comment: 1296 sq. ft., presence of asbestos/lead paint, off-site use only

Bldg. P–607
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219640224
Status: Unutilized
Comment: 12610 sq. ft., presence of asbestos/lead paint, most recent use—admin/classroom, off-site use only

Bldg. P–608
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219640225
Status: Unutilized
Comment: 12676 sq. ft., presence of asbestos/lead paint, most recent use—admin/classroom, off-site use only

Bldg. P–608A
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219640226
Status: Unutilized
Comment: 2914 sq. ft., presence of asbestos/lead paint, most recent use—admin/classroom, off-site use only

Bldg. P–100
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219640227
Status: Unutilized
Comment: 226374 sq. ft., presence of asbestos/lead paint, historic property, most recent use—hospital/medical center

Bldg. P–2270
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219640230
Status: Unutilized
Comment: 14622 sq. ft., 2-story, historic bldg., presence of asbestos/lead paint, most recent use—auditorium

Bldg. S–3898
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219640235
Status: Unutilized
Comment: 4200 sq. ft., presence of asbestos/lead paint, most recent use—classroom, off-site use only

Bldg. S–3899
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219640236
Status: Unutilized
Comment: 4200 sq. ft., presence of asbestos/lead paint, most recent use—classroom, off-site use only

Bldg. P–4190
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219640237
Status: Unutilized
Comment: 88067 sq. ft., historic bldg., presence of asbestos/lead paint, most recent use—admin/warehouse

Bldg. P–5126
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219640240
Status: Unutilized
Comment: 189 sq. ft., off-site use only

Bldg. P–6201
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219640241
Status: Unutilized
Comment: 3003 sq. ft., presence of asbestos/lead paint, most recent use—officers family quarters, off-site use only

Bldg. P–6202
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219640242
Status: Unutilized
Comment: 1479 sq. ft., presence of lead paint, most recent use—officers family quarters, off-site use only

Bldg. P–6203
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219640243
Status: Unutilized
Comment: 1381 sq. ft., presence of lead paint, most recent use—military family quarters, off-site use only

Bldg. P–6204
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219640244
Status: Unutilized
Comment: 1454 sq. ft., presence of asbestos/lead paint, most recent use—military family quarters, off-site use only

Bldg. 7137, Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219640564
Status: Unutilized
Comment: 35,736 sq. ft., 3-story, most recent use—housing, off-site use only

Bldg. 4630
Fort Hood
Fort Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 219710088
Status: Unutilized
Comment: 21,833 sq. ft., most recent use—Admin., off-site use only

Bldg. P–4224
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219720213
Status: Excess
Comment: 293 sq. ft., concrete, possible lead paint, off-site use only

Bldg. T–330
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219730315
Status: Unutilized
Comment: 59,149 sq. ft., presence of asbestos/lead paint, historical category most recent use—laundry, off-site use only

Bldg. P–605A & P–606A
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219730316
Status: Unutilized
Comment: 2418 sq. ft., poor condition, presence of asbestos/lead paint, historical category, most recent use—indoor firing range, off-site use only

Bldg. S–1150
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219730317
Status: Unutilized
Comment: 8629 sq. ft., presence of asbestos/lead paint, most recent use—instruction bldg., off-site use only

Bldg. S–1440–S–1446, S–1452
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219730318
Status: Unutilized
Comment: 4200 sq. ft., presence of lead, most recent use—instruction bldgs., off-site use only

4 Bldgs.
Fort Sam Houston
#S–1447, S–1449, S–1450, S–1451
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219730319
Status: Unutilized
Comment: 4200 sq. ft., presence of asbestos/lead paint, most recent use—instruction bldgs., off-site use only

Bldg. P–3500
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219730320
Status: Unutilized
Comment: 13,921 sq. ft., poor condition, presence of asbestos/lead paint, most recent use—support of firing range, off-site use only

Bldg. T–3551
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219730321
Status: Unutilized
Comment: 992 sq. ft., presence of asbestos/lead paint, most recent use—maint. shop, off-site use only

Bldg. T–3552
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219730322
Status: Unutilized
Comment: 992 sq. ft., poor condition, presence of asbestos/lead paint, most recent use—storage shed, off-site use only

Bldg. T–3553
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219730323
Status: Unutilized
Comment: 992 sq. ft., poor condition, presence of asbestos/lead paint, most recent use—storage shed, off-site use only

Bldg. T–3554
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219730324
Status: Unutilized
Comment: 18803 sq. ft., poor condition, presence of lead paint, most recent use—stable, off-site use only

Bldg. T–3556
Fort Sam Houston
San Antonio Co: Bexar TX 78234-5000
Landholding Agency: Army
Property Number: 219730325
Status: Unutilized
Comment: 1300 sq. ft., poor condition, presence of lead paint, most recent use—stable, off-site use only

Bldg. T–3557
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219730326
Status: Unutilized
Comment: 992 sq ft., poor condition, presence of asbestos/lead paint, most recent use—stable, off-site use only

Bldg. P–4115
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219730327
Status: Unutilized
Comment: 529 sq. ft., presence of asbestos/lead paint, historic bldg., most recent use—admin., off-site use only

Bldg. 4205
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219730328
Status: Unutilized
Comment: 24,573 sq. ft., presence of asbestos/lead paint, most recent use—warehouse, off-site use only

Bldg. T–5112
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219730329
Status: Unutilized
Comment: 3663 sq. ft., presence of asbestos/lead paint, historical category, most recent use—post exchange, off-site use only

Bldg. T–5113
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219730330
Status: Unutilized
Comment: 2550 sq. ft., presence of asbestos/lead paint, historical bldg. most recent use—medical clinic, off-site use only

Bldg. T–5122
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219730331
Status: Unutilized
Comment: 3602 sq. ft., presence of asbestos/lead paint, historical category, most recent use—instruction bldg., off-site use only

Bldg. T–5903
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219730332
Status: Unutilized
Comment: 5200 sq. ft., presence of asbestos/lead paint, historical category, most recent use—admin., off-site use only

Bldg. T–5907
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219730333
Status: Unutilized
Comment: 570 sq. ft., presence of asbestos/lead paint, historical category, most recent use—admin., off-site use only

Bldg. T–6284
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219730335
Status: Unutilized
Comment: 120 sq. ft., presence of lead paint, most recent use—pump station, off-site use only

Bldg. T–5906
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219730420
Status: Unutilized
Comment: 570 sq. ft., presence of asbestos/lead paint, most recent use—admin., off-site use only

Bldg. P–1382
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219730365
Status: Unutilized
Comment: 30,082 sq. ft., kpresence of asbestos/lead paint, most recent use—housing, off-site use only

Bldg. P–2013
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219810366

Status: Unutilized
Comment: 10,990 sq. ft., historical property, presence of asbestos/lead paint, most recent use—instruction, off-site use only

Bldg. P–2014
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219810367
Status: Unutilized
Comment: 10,990 sq. ft., historical property, presence of asbestos/lead paint, most recent use—instruction, off-site use only

Bldg. P–2015
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219810368
Status: Unutilized
Comment: 11,333 sq. ft., historical property, presence of asbestos/lead paint, most recent use—admin., off-site use only

Bldg. P–2016
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219810369
Status: Unutilized
Comment: 11,517 sq. ft., historical property, presence of asbestos/lead paint, most recent use—admin., off-site use only

Bldg. P–2017
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219810370
Status: Unutilized
Comment: 10,990 sq. ft., historical property, presence of asbestos/lead paint, most recent use—admin., off-site use only

Bldg. S–3897
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219810371
Status: Unutilized
Comment: 4,200 sq. ft., presence of asbestos/lead paint, most recent use—instruction, off-site use only

Virginia

Bldg. 2436, Fort Belvoir
Ft. Belvoir Co: Fairfax VA 22060–5402
Landholding Agency: Army
Property Number: 219720215
Status: Excess
Comment: 3200 sq. ft. most recent use—storage, needs extensive repair, possible asbestos/lead paint, off-site use only

Bldg. 409
Fort Myer
Ft. Myer Co: Arlington VA 22211–1199
Landholding Agency: Army
Property Number: 219730336
Status: Unutilized
Comment: 2930 sq. ft., most recent use—storage, off-site use only

Washington

13 Bldgs., Fort Lewis
AO402, CO723, CO726, CO727, CO902, CO903, CO906, CO907, CO922, CO923, CO926, CO927, C1250
Ft. Lewis Co: Pierce WA 98433–9500
Landholding Agency: Army
Property Number: 219630199
Status: Unutilized
Comment: 2360 sq. ft., possible asbestos/lead paint, most recent use—barracks, off-site use only

7 Bldgs. Fort Lewis
AO438, AO439, CO901, CO910, CO911, CO918, CO919
Ft. Lewis Co: Pierce WA 98433–9500
Landholding Agency: Army
Property Number: 219630200
Status: Unutilized
Comment: 1144 sq. ft., possible asbestos/lead paint, most recent use—dayroom bldgs., off-site use only

Bldg. AO608, Fort Lewis
Ft. Lewis Co: Pierce WA 98433–9500
Landholding Agency: Army
Property Number: 219630201
Status: Unutilized
Comment: 2285 sq. ft., needs rehab, possible asbestos/lead paint, most recent use—dining, off-site use only

6 Bldg. Fort Lewis
CO908, CO728, CO921, CO928, C1008, C1108
Fort Lewis Co: Pierce WA 98433–9500
Landholding Agency: Army
Property Number: 219630204
Status: Unutilized
Comment: 2207 sq. ft., possible asbestos/lead paint, most recent use—dining, off-site use only

Bldg. CO909, Fort Lewis
Ft. Lewis Co: Pierce WA 98433–9500
Landholding Agency: Army
Property Number: 219630205
Status: Unutilized
Comment: 1984 sq. ft., possible asbestos/lead paint, most recent use—admin., off-site use only

Bldg. CO920, Fort Lewis
Ft. Lewis Co: Pierce WA 98433–9500
Landholding Agency: Army
Property Number: 219630206
Status: Unutilized
Comment: 1984 sq. ft., possible asbestos/lead paint, most recent use—admin., off-site use only

Bldg. C1249, Fort Lewis
Ft. Lewis Co: Pierce WA 98433–9500
Landholding Agency: Army
Property Number: 219630207
Status: Unutilized
Comment: 992 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 1164, Fort Lewis
Ft. Lewis Co: Pierce WA 98433–9500
Landholding Agency: Army
Property Number: 219630213
Status: Unutilized
Comment: 230 sq. ft., possible asbestos/lead paint, most recent use—storehouse, off-site use only

Bldg. 1220, Fort Lewis
Ft. Lewis Co: Pierce WA 98433–9500
Landholding Agency: Army
Property Number: 219630214
Status: Unutilized
Comment: 1386 sq. ft., possible asbestos/lead paint, most recent use—warehouse, off-site use only

Bldg. 1307, Fort Lewis
Ft. Lewis Co: Pierce WA 98433–9500
Landholding Agency: Army
Property Number: 219630216
Status: Unutilized
Comment: 1092 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 1309, Fort Lewis
Ft. Lewis Co: Pierce WA 98433–9500
Landholding Agency: Army
Property Number: 219630217
Status: Unutilized
Comment: 1092 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 2167, Fort Lewis
Ft. Lewis Co: Pierce WA 98433–9500
Landholding Agency: Army
Property Number: 219630218
Status: Unutilized
Comment: 288 sq. ft., possible asbestos/lead paint, most recent use—warehouse, off-site use only

Bldg. 4078, Fort Lewis
Ft. Lewis Co: Pierce WA 98433–9500
Landholding Agency: Army
Property Number: 219630219
Status: Unutilized
Comment: 10200 sq. ft., needs rehab, possible asbestos/lead paint, most recent use—warehouse, off-site use only

Bldg. 9599, Fort Lewis
Ft. Lewis Co: Pierce WA 98433–9500
Landholding Agency: Army
Property Number: 219630220
Status: Unutilized
Comment: 12366 sq. ft., possible asbestos/lead paint, most recent use—warehouse, off-site use only

Bldg. A1404, Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 219640570
Status: Unutilized
Comment: 557 sq. ft., needs rehab, most recent use—storage, off-site use only

Bldg. A1419, Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 219640571
Status: Unutilized
Comment: 1307 sq. ft., needs rehab most recent use—storage, off-site use only

Bldg. A1420, Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 219640572
Status: Unutilized
Comment: 5234 sq. ft., needs rehab, most recent use—vehicle maintenance shop, off-site use only

11 Buildings
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Location: #EO103–EO106, EO306, EO315–EO316, EO343–EO344, EO353–EO354
Landholding Agency: Army
Property Number: 219710143
Status: Unutilized
Comment: 2360 sq. ft., possible asbestos/lead paint, most recent use—officer's quarters, off-site use only

Bldgs. EO109, EO350
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army

Property Number: 219710144
Status: Unutilized
Comment: 1165 sq. ft., possible asbestos/lead paint, most recent use—dayroom, off-site use only

Bldgs. EO120, EO321, EO338
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 219710145
Status: Unutilized
Comment: 3810 sq. ft., possible asbestos/lead paint, most recent use—officer's quarters, off-site use only

5 Bldgs.
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Location: #EO127, EO136, EO302, EO204, EO330
Landholding Agency: Army
Property Number: 219710146
Status: Unutilized
Comment: 2284 sq. ft., possible asbestos/lead paint, most recent use—offices, off-site use only

Bldg. EO136
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 219710147
Status: Unutilized
Comment: 3885 sq. ft., possible asbestos/lead paint, most recent use—officer's quarters, off-site use only

Bldgs. EO158, EO303
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 219710148
Status: Unutilized
Comment: 1675 sq. ft., possible asbestos/lead paint, most recent use—office, off-site use only

Bldg. EO202
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 219710149
Status: Unutilized
Comment: 992 sq. ft., possible asbestos/lead paint, most recent use—office, off-site use only

Bldg. EO312
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 219710150
Status: Unutilized
Comment: 3885 sq. ft., possible asbestos/lead paint, most recent use—officer's quarters, off-site use only

Bldg. EO322
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 219710151
Status: Unutilized
Comment: 2250 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. EO325
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 219710152
Status: Unutilized
Comment: 3336 sq. ft., possible asbestos/lead paint, most recent use—officer's quarters, off-site use only

Bldg. EO329
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 219710153
Status: Unutilized
Comment: 1843 sq. ft., possible asbestos/lead paint, most recent use—office, off-site use only

Bldg. EO334
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 219710154
Status: Unutilized
Comment: 3779 sq. ft., possible asbestos/lead paint, most recent use—recreation, off-site use only

Bldg. EO335
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 219710155
Status: Unutilized
Comment: 2207 sq. ft., possible asbestos/lead paint, most recent use—dining facility, off-site use only

Bldg. EO347
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 219710156
Status: Unutilized
Comment: 1800 sq. ft., possible asbestos/lead paint, most recent use—office, off-site use only

Bldgs. EO349, EO110
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 219710157
Status: Unutilized
Comment: 1296 sq. ft., possible asbestos/lead paint, most recent use—office, off-site use only

4 Bldgs.
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Location: #EO351, EO308, EO207, EO108
Landholding Agency: Army
Property Number: 219710158
Status: Unutilized
Comment: 1144 sq. ft., possible asbestos/lead paint, most recent use—dayroom, off-site use only

Bldgs. EO352, EO307
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 219710159
Status: Unutilized
Comment: 992 sq. ft., possible asbestos/lead paint, most recent use—office, off-site use only

Bldg. EO355
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 219710160
Status: Unutilized
Comment: 2360 sq. ft., possible asbestos/lead paint, most recent use—training facility, off-site use only

Bldg. B1008, Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 219710216
Status: Unutilized
Comment: 7387 sq. ft., 2-story, needs rehab, possible asbestos/lead paint, most recent use—medical clinic, off-site use only

Bldgs. B1011–B1012, Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 219710217
Status: Unutilized
Comment: 992 sq. ft. and 1144 sq. ft., needs rehab, possible asbestos/lead paint, most recent use—office, off-site use only

Bldgs. CO509, CO709, CO720
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 219710372
Status: Unutilized
Comment: 1984 sq. ft., possible asbestos/lead paint, needs rehab, most recent use—storage, off-site use only

4 Bldgs.
Fort Lewis
CO511, CO710, CO711, CO719
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 219810373
Status: Unutilized
Comment: 1,144 sq. ft., possible asbestos/lead paint, needs rehab, most recent use—dayrooms, off-site use only

11 Bldgs.
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Location: CO528, CO701, CO708, CO721, CO526, CO527, CO702, CO703, CO706, CO707, CO722
Landholding Agency: Army
Property Number: 219810374
Status: Unutilized
Comment: 2207 sq. ft., possible asbestos/lead paint, needs rehab, most recent use—dining, off-site use only

Bldgs. 5230, 6220, 6103
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 219810375
Status: Unutilized
Comment: 1372 sq. ft., possible asbestos/lead paint, needs rehab, most recent use—admin., off-site use only

11 Bldgs.
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Location: 6030, 6101, 6132, 6133, 6165, 6166, 6202, CO150, CO151, CO154, CO155
Landholding Agency: Army
Property Number: 219810376
Status: Unutilized
Comment: 3108 sq. ft., possible asbestos/lead paint, needs rehab, most recent use—motor repair shop, off-site use only

4 Bldgs.
Fort Lewis
6033, 6164, 6218, CO160

Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 219810377
Status: Unutilized
Comment: 542 sq. ft., possible asbestos/lead paint, needs rehab, most recent use—oil storage, off-site use only

Land (by State)

Georgia

Land (Railbed)
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219440440
Status: Unutilized
Comment: 17.3 acres extending 1.24 miles, no know utilities potential

Minnesota

Land
Twin Cities Army Ammunition Plant
New Brighton Co: Ramsey MN 55112–
Landholding Agency: Army
Property Number: 219120269
Status: Underutilized
Comment: Approx. 49 acres, possible contamination, secured area with alternate access.

Nevada

Parcel A
Hawthorne Army Ammunition Plant
Hawthorne Co: Mineral NV 89415–
Location: At Foot of Eastern slope of Mount Grant in Wassuk Range & S.W. edge of Walker Lane
Landholding Agency: Army
Property Number: 219012049
Status: Unutilized
Comment: 160 acres, road and utility easements, no utility hookup, possible flooding problem.

Parcel B
Hawthorne Army Ammunition Plant
Hawthorne Co: Mineral NV 89415–
Location: At Foot of Eastern slope of Mount Grant in Wassuk Range & S.W. edge of Walker Lane
Landholding Agency: Army
Property Number: 219012056
Status: Unutilized
Comment: 1920 acres, road and utility easements, no utility hookup, possible flooding problem

Parcel C
Hawthorne Army Ammunition Plant
Hawthorne Co: Mineral NV 89415–
Location: South-southwest of Hawthorne along HWAAP's South Magazine Area at Western edge of State Route 359
Landholding Agency: Army
Property Number: 219012057
Status: Unutilized
Comment: 85 acres; road & utility easements, no utility hookup

Parcel D
Hawthorne Army Ammunition Plant
Hawthorne Co: Mineral NV 89415–
Location: South-southwest of Hawthorne along HWAAP's South Magazine Area at Western edge of State Route 359
Landholding Agency: Army
Property Number: 219012058
Status: Unutilized
Comment: 955 acres; road and utility easements, no utility hookup

New York

Land—6.965 Acres
Dix Avenue
Queensbury Co: Warren NY 12801–
Landholding Agency: Army
Property Number: 219540018
Status: Unutilized
Comment: 6.96 acres of vacant land, located in industrial area, potential utilities

Tennessee

Holston Army Ammunition Plant
Kingsport Co: Hawkins TN 61299–6000
Landholding Agency: Army
Property Number: 219012338
Status: Unutilized
Comment: 8 acres, unimproved; could provide access; 2 acres unusable; near explosives.

Texas

Old Camp Bullis Road
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219420461
Status: Unutilized
Comment: 7.16 acres, rural gravel road

Castner Range
Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219610788
Status: Unutilized
Comment: approx. 56.81 acres, portion in floodway, most recent use—recreation picnic park

**Suitable/Unavailable Properties**

*Buildings (by State)*

Alaska

Bldg. 808
Fort Richardson
Ft. Richardson AK 99505–6500
Landholding Agency: Army
Property Number: 219810254
Status: Excess
Comment: 99,927 sq. ft., most recent use—cold storage, off-site use only

Bldg. 809
Fort Richardson
Ft. Richardson AK 99505–6500
Landholding Agency: Army
Property Number: 219810255
Status: Excess
Comment: 5000 sq. ft., most recent use—storage, off-site use only

Bldg. 47799
Fort Richardson
Ft. Richardson AK 99505–6500
Landholding Agency: Army
Property Number: 219810256
Status: Excess
Comment: 15,050 sq. ft., most recent ue—confinement facility, off-site use only

Georgia

Bldg. 4090
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219630007
Status: Underutilized
Comment: 3530 sq. ft., most recent use—chapel, off-site use only

Hawaii

Bldg. S–305
Fort Shafter
Honolulu Co: Honolulu HI 96819–
Landholding Agency: Army
Property Number: 219740283
Status: Unutilized
Comment: 3883 sq. ft., needs rehab, most recent use-housing, off-site use only

Bldg. S–307
Fort Shafter
Honolulu Co: Honolulu HI 96819–
Landholding Agency: Army
Property Number: 219740284
Status: Unutilized
Comment: 2852 sq. ft., needs rehab, most recent use—housing, off-site use only

Kansas

Bldg. P–295
Fort Leavenworth
Leavenworth Co: Leavenworth KS 66027–
Landholding Agency: Army
Property Number: 219810296
Status: Unutilized
Comment: 3480 sq. ft., concrete, most recent use—underground storage, off-site use only

Maryland

Bldgs. TMA4, TMA5, TMA8, TMA9
Fort George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 219320292
Status: Unutilized
Comment: approx. 800 sq. ft. steel plate, gravel base ammunition storage area, fair condition

Missouri

Bldgs. 1367, 1368, 1371, 1372
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219820173
Status: Unutilized
Comment: 4720 sq. ft., presence of asbestos/lead paint, most recent use—admin., off-site use only

Bldg. 4970
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219820185
Status: Unutilized
Comment: 5000 sq. ft., presence of lead paint, most recent use—storage, off-site use only

New Mexico

Bldg. 436
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 219730303
Status: Unutilized
Comment: 4725 sq. ft., poor condition, most recent use—decontamination shelter, off-site use only

Bldg. 1310
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army

Property Number: 219730304
Status: Unutilized
Comment: 4427 sq. ft., presence of asbestos, poor condition, most recent use—boy scout facility, off-site use only

New York

McGrath USAR Center
Robinson Road
Village of Massena Co: St. Lawrence NY 13662–2497
Landholding Agency: Army
Property Number: 219740333
Status: Unutilized
Comment: 12,930 sq. ft. reserve center and 1325 sq. ft. motor repair shop

Texas

Bldg. P–2000, Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219220389
Status: Underutilized
Comment: 49,542 sq. ft., 3-story brick structure, within National Landmark Historic District

Bldg. P–2001, Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219220390
Status: Underutilized
Comment: 16,539 sq. ft., 4-story brick structure, within National Landmark Historic District

Bldg. T–189, Fort Sam Houston
Sand Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219220402
Status: Underutilized
Comment: 11,949 sq. ft., 4-story brick structure, within National Landmark Historic District, possible lead contamination

Bldg. S–1461
Fort Sam Houston Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219610772
Status: Unutilized
Comment: 11568 gross sq. ft., presence of asbestos/lead base paint, most recent use—admin., off-site use only

Virginia

Bldg. T–181
Fort Monroe
Ft. Monroe VA 23651–
Landholding Agency: Army
Property Number: 219630002
Status: Underutilized
Comment: 1835 sq. ft., most recent use—office, off-site use only

Bldg. T–182
Fort Monroe
Ft. Monroe VA 23651–
Landholding Agency: Army
Property Number: 219630003
Status: Underutilized
Comment: 1997 sq. ft., most recent use—office, off-site use only

Bldg. T–183
Fort Monroe
Ft. Monroe VA 23651–
Landholding Agency: Army
Property Number: 219630004
Status: Underutilized
Comment: 1760 sq. ft., most recent use—office, off-site use only

Bldg. T–184
Fort Monroe
Ft. Monroe VA 23651–
Landholding Agency: Army
Property Number: 219630005
Status: Underutilized
Comment: 1750 sq. ft., most recent use—office, off-site use only

*Land (by State)*

North Carolina

.92 Acre—Land
Military Ocean Terminal, Sunny Point
Southport Co: Brunswick NC 28461–5000
Landholding Agency: Army
Property Number 219610728
Status: Underutilized
Comment: municipal drinking waterwell, restricted by explosive safety regs., New Hanover County Buffer Zone

10 Acre—Land
Military Ocean Terminal, Sunny Point
Southport Co: Brunswick NC 28461–5000
Landholding Agency: Army
Property Number: 219610729
Status: Underutilized
Comment: municipal park, restricted by explosive safety regs., New Hanover County Buffer Zone

257 Acre—Land
Military Ocean Terminal, Sunny Point
Southport Co: Brunswick NC 28461–5000
Landholding Agency: Army
Property Number: 219610730
Status: Underutilized
Comment: state park, restricted by explosive safety regs., New Hanover County Buffer Zone

24.83 acres—Tract of Land
Military Ocean Terminal, Sunny Point
Southport Co: Brunswick NC 28461–5000
Landholding Agency: Army
Property Number: 219620685
Status: Underutilized
Comment: 24.83 acres, municipal park, most recent use—New Hanover County explosive buffer zone

Texas

Vacant Land, Fort Sam Houston
All of Block 1800, Portions of Blocks 1900, 3100 and 3200
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219220438
Status: Unutilized
Comment: 210.83 acres, 85% located in floodplain, presence of unexploded ordnance, 2 land fill areas

**Suitable/To Be Excessed**

*Buildings (by State)*

Idaho

Moore Hall U.S. Army Rsve Ctr
1575 N. Skyline Dr.
Idaho Falls Co: Bonnville ID 83401-
Landholding Agency: Army
Property Number: 219720207
Status: Unutilized
Comment: 12582 sq. ft. dental clinic in mobile home, 1138 sq. ft. maint. shop, good condition, possible asbestos

Illinois

WARD Army Reserve Center
1429 Northmoor Road
Peoria Co: Peoria IL 61614–3498
Landholding Agency: Army
Property Number: 219430254
Status: Unutilized
Comment: 2 bldgs. on 3.15 acres, 36451 sq. ft., reserve center & warehouse, presence of asbestos, most recent use—office/storage/training

Stenafich Army Reserve Center
1600 E. Willow Road
Kankakee Co: Kankakee IL 60901–2631
Landholding Agency: Army
Property Number: 219430255
Status: Unutilized
Comment: 2 bldgs.—reserve center & vehicle maint. shop on 3.68 acres, 5641 sq. ft., most recent use—office/storage/training, presence of asbestos

Indiana

Bldg. 27, USARC Paulsen
North Judson Co: Starke IN 46366-
Landholding Agency: Army
Property Number: 219610669
Status: Unutilized
Comment: 10379 sq. ft., presence of asbestos, most recent use—office/storage/training

Bldg. 36, USARC Paulsen
North Judson Co: Starke IN 46366-
Landholding Agency: Army
Property Number: 219610670
Status: Unutilized
Comment: 1802 sq. ft., presence of asbestos, most recent use—vehicle maintenance

Kansas

U.S. Army Reserve Center Annex
800 South 29th St.
Parsons KS
Landholding Agency: Army
Property Number: 219720208
Status: Unutilized
Comment: 3157 sq. ft., 1-story, reserve center annex and storage

Maine

Reserve Ctr. Bldg. & Land
Bridgeton Memorial US Army Reserve Center
Depot Street
Bridgton Co: Cumberland ME 04009–1211
Landholding Agency: Army
Property Number: 219710122
Status: Unutilized
Comment: 4484 sq. ft., 1-story, brick, on 3.65 acres

Maintenance Bldg.
Bridgeton Memorial US Army Reserve Center
Depot Street
Bridgeton Co: Cumberland ME 04009–1211
Landholding Agency: Army
Property Number: 219710123
Status: Unutilized
Comment: 1325 sq. ft., 1-story, brick, most recent use—vehicle maintenance shop

New York

Bldgs. P–1 & P–2
Olean Reserve Center
423 Riverside Drive
Olean Co: Cattaraugus NY 14760–
Landholding Agency: Army
Property Number: 219540017
Status: Unutilized
Comment: 4464 ft., reserve center/1325 sq. ft. motor repair shop, 1-story each, concrete block/brick frame, on 3.9 acres

Reserve Center
PFC. Robert J. Manville USARC
1205 Lafayette Street
Ogdensburg Co: St. Lawrence NY 13669–
Landholding Agency: Army
Property Number: 219710241
Status: Unutilized
Comment: 11,540 sq. ft., good condition

Motor Repair Shop
PFC. Robert J. Manville USARC
1205 Lafayette Street
Ogdensburg Co: St. Lawrence NY 13669–
Landholding Agency: Army
Property Number: 219710242
Status: Unutilized
Comment: 2524 sq. ft., good condition

Oregon

Santo Hall U.S. Army Rsve Ctr
701 N. Columbus Ave.
Medford Co: Jackson OR 97501–
Landholding Agency: Army
Property Number: 219720211
Status: Unutilized
Comment: 12,907 sq. ft. admin. bldg., 2332 sq. ft. maintenance shop, good condition

Wisconsin

U.S. Army Reserve Center
2310 Center Street
Racine Co: Racine WI 53403–3330
Landholding Agency: Army
Property Number: 219620740
Status: Unutilized
Comment: 3 bldgs. (14,137 sq. ft.) on 3 acres, needs repair, most recent use—office/storage/training

*Land (by State)*

California

U.S. Army Reserve Center
Mountain Lakes Industrial Park
Redding Co: Shasta, CA
Landholding Agency: Army
Property Number: 219610645
Status: Unutilized
Comment: 5.13 acres within a light industrial park

Texas

Camp Bullis, Tract 9
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219420462
Status: Unutilized
Comment: 1.07 acres of undeveloped land

**Unsuitable Properties**

*Buildings (by State)*

Alabama

175 Bldgs.
Redstone Arsenal
Redstone Arsenal Co: Madison AL 35898–
Landholding Agency: Army
Property Number: 219014015, 219014036, 219014060, 219430266–219430277, 219430284–219430288, 219440082, 219530010–219530011, 219530016–219530018, 219530034, 219530042, 219530045, 219610272, 219610277–219610278, 219630015–219630017, 219710163–219710170, 219720004–219720007, 219720014–219720015, 219740003, 219810011–219810023, 219820007–219820015
Status: Unutilized
Reason: Secured Area (Some are extensively deteriorated.)

106 Bldgs. Fort Rucker
Ft. Rucker Co: Dale AL 36362
Landholding Agency: Army
Property Number: 219310016, 219330003, 219340116, 219340124, 219410022, 219440094–219440095, 219520057–219520058, 219620372, 219620374, 219630009–219630014, 219640002, 219640440, 219710091, 219730008–219730012, 219740004, 219740006, 219810010, 219820016–219820018, 219830001–219830008
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 25203, 25205–25207, 25209, 25501, 25503, 25505, 25507, 25510
Fort Rucker
Stagefield Areas
Ft. Rucker Co: Dale AL 36362–5138
Landholding Agency: Army
Property Number: 219410020–219410021
Status: Unutilized
Reason: Secured area

Bldg. 402–C
Alabama Army Ammunition Plant
Childersburg Co: Talladega AL 35044
Landholding Agency: Army
Property Number: 219420124
Status: Unutilized
Reason: Secured Area

Bldgs. S0015, S0016
Anniston Army Depot
Anniston AL 36201
Landholding Agency: Army
Property Number: 219740001–219740002
Status: Unutilized
Reason: Extensive deterioration

Bldg. 0003 (Training Site)
Fort Benning
Montgomery AL
Landholding Agency: Army
Property Number: 219830009
Status: Unutilized
Reason: Extensive deterioration

Alaska

17 Bldgs.
Fort Greely
Ft. Greely AK 99790–
Landholding Agency: Army
Property Number: 219210124–219210125, 219220320–219220332, 219520064
Status: Unutilized
Reason: Extensive deterioration

23 Bldgs., Fort Wainwright
Ft. Wainwright AK 99703
Landholding Agency: Army
Property Number: 219640006–219640007, 219710090, 219710195–219710198, 219810001–219810007, 219820001–219820006
Status: Underutilized
Reason: Within 2000 ft. of flammable or explosive material, Secured area, Floodway

Bldg. 1501, Fort Greely
Ft. Greely AK 99505
Landholding Agency: Army
Property Number: 219240327
Status: Unutilized
Reason: Secured Area

Sullivan Roadhouse, Fort Greely
Ft. Greely AK
Landholding Agency: Army
Property Number: 219430291
Status: Unutilized
Reason: Extensive deterioration

30 Bldgs., Fort Richardson
Ft. Richardson AK 99505
Landholding Agency: Army
Property Number: 219710199–219710220, 219720001, 219730004–219730007, 219810008–219810009
Status: Unutilized
Reason: Extensive deterioration

Arizona

32 Bldgs.
Navajo Depot Activity
Bellemont Co: Coconino AZ 86015–
Location: 12 miles west of Flagstaff, Arizona on I–40
Landholding Agency: Army
Property Number: 219014560–219014591
Status: Underutilized
Reason: Secured ARea

10 properties: 753 earth covered igloos; above ground standard magazines
Navajo Depot Activity
Bellemont Co: Coconino AZ 86015–
Location: 12 miles west of Flagstaff, Arizona on I–40
Landholding Agency: Army
Property Number: 219014592–219014601
Status: Underutilized
Reason: Secured Area

9 Bldgs.
Navajo Depot Activity
Bellemont Co: Coconino AZ 86015–5000
Location: 12 miles west of Flagstaff on I–40
Landholding Agency: Army
Property Number: 219030273–219030274, 219120175–219120181
Status: Unutilized
Reason: Secured Area

Arkansas

6 Bldgs.
Pine Bluff Arsenal
Pine Bluff Co: Jefferson AR 71602–9500
Landholding Agency: Army
Property Number: 219420138–219420142, 219440077
Status: Unutilized
Reason: Secured Area, Extensive deterioration

177 Bldgs., Fort Chaffee
Ft. Chaffee Co: Sebastian AR 72905–5000
Landholding Agency: Army
Property Number: 219630019–219630029, 219640462–219640477
Status: Unutilized
Reason: Extensive deterioration

California

Bldg. 18
Riverbank Army Ammunition Plant
5300 Claus Road
Riverbank Co: Stanislaus CA 95367–
Landholding Agency: Army
Property Number: 219012554
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material Secured Area

11 Bldgs., Nos. 2–8, 156, 1, 120, 181
Riverbank Army Ammunition Plant
Riverbank Co: Stanislaus CA 95367–
Landholding Agency: Army
Property Number: 219013582–219013588, 219013590, 2190240444–219240446

Status: Underutilized
Reason: Secured Area

9 Bldgs.
Oakland Army Base
Oakland Co: Alameda CA 94626–5000
Landholding Agency: Army
Property Number: 219013903–219013906, 219120051, 219340008–219340011
Status: Unutilized
Reason: Secured Area (Some are extensively deteriorated.)

Bldg. S–184
Fort Hunter Liggett
Ft. Hunter Liggett Co: Monterey CA 93928–
Landholding Agency: Army
Property Number: 219014602
Status: Underutilized
Reason: Secured Area

Bldgs. 13, 171, 178 Riverbank Ammun Plant
5300 Claus Road
Riverbank Co: Stanislaus CA 95367–
Landholding Agency: Army
Property Number: 2190120162–219120164
Status: Underutilized
Reason: Secured Area

Bldgs. 258, 313 Fort Hunter Liggett
Ft. Hunter Liggett Co: Monterey CA 93928
Landholding Agency: Army
Property Number: 219820019–219820020
Status: Unutilized
Reason: Secured Area Within 2000 ft. of flammable or explosive material

13 Bldgs.
DDDRW Sharpe Facility
Tracy Co: San Joaquin CA 95331
Landholding Agency: Army
Property Number: 2190430025–219430026, 219430032–219430033, 212961089–219610296, 219740008
Status: Unutilized
Reason: Secured Area

6 Buildings
Oakland Army Base
Oakland Co: Alameda CA 94626
Location: Include: 90, 790, 792, 807, 829, 916
Landholding Agency: Army
Property Number: 219510097
Status: Unutilized
Reason: Secured Area Within 2000 ft. of flammable or explosive material

Bldgs. 29, 39, 73, 154, 155, 193, 204, 257
Los Alamitos Co: Orange CA 90720–5001
Landholding Agency: Army
Property Number: 219520040
Status: Unutilized
Reason: Extensive deterioration

Bldg. 1103, 1131, 1120
Parks Reserve Forces Training Area
Dublin Co: Alameda CA 94568–5201
Landholding Agency: Army
Property Number: 219520056, 219830010
Status: Unutilized
Reason: Extensive deterioration

Bldg. 401
Sierra Army Depot
Herlong Co: Lassen CA 96113
Landholding Agency: Army
Property Number: 219620382
Status: Underutilized
Reason: Within 2000 ft. of flammable or explosive material, Secured Area

447 Bldgs.
Camp Roberts
Camp Roberts Co: San Obispo CA
Landholding Agency: Army
Property Number: 2190820192–219820235
Status: Excess
Reason: Secured Area, Extensive deterioration

Bldgs. 110, 418
Presidio of Monterey Annex
Seaside Co: Monterey CA 93944
Landholding Agency: Army
Property Number: 219810380–219810381
Status: Unutilized
Reason: Extensive deterioration

Colorado

Bldgs. T–317, T–412, 431, 433
Rocky Mountain Arsenal
Commerce Co: Adams Co 80022–2180
Landholding Agency: Army
Property Number: 219320013–219320016
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material Secured Area, Extensive deterioration

87 Bldgs. Fort Carson
Ft. Carson Co: El Paso CO 80913–5023
Landholding Agency: Army
Property Number: 219610297–219610-318, 219620384–219620409, 219640009, 219710093, 219710172–219710179, 219730015–219730017, 219740009, 219820023–219820026, 219830020–219830032
Status: Unutilized
Reason: Extensive deterioration

114 Bldgs.
Pueblo Chemical Depot
Pueblo CO 81006–9330
Landholding Agency: Army
Property Number: 219830011–219830019
Status: Unutilized
Reason: Extensive deterioration

Connecticut

Bldgs. DK001, DKL05, DKL10
USARC Middletown
Middletown Co: Middlesex CT 06457–1809
Landholding Agency: Army
Property Number: 219810024–219810026
Status: Unutilized
Reason: Extensive deterioration

District of Columbia

Bldgs. 50, 51, 86, 86A
Walter Reed Army Medical Center
Washington DC 20307–5001
Landholding Agency: Army
Property Number: 219830033
Status: Unutilized
Reason: Extensive deterioration

Georgia

Fort Stewart
Sewage Treatment Plant
Ft. Stewart Co: Hinesville GA 31314–
Landholding Agency: Army
Property Number: 219013922
Status: Unutilized
Reason: Sewage treatment

Facility 12304
Fort Gordon
Augusta Co: Richmond GA 30905–
Location: Located off Lane Avenue
Landholding Agency: Army
Property Number: 219014787
Status: Unutilized
Reason: Wheeled vehicle grease/inspection rack

242 Bldgs.,
Fort Gordon
Augusta Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 219220269, 219320026, 219410039–219410061, 219410071–219410072, 219410092, 219410100–219410115, 219520067, 219610330–219610331. 219610336, 219630044–219630069, 219640011–219640037, 219710094, 219730019–219730020, 219810027, 219830034–219830067
Status: Unutilized
Reason: Extensive deterioration

4 Bldgs., Fort Benning
Ft. Benning Co: Muscogee GA 31905
Landholding Agency: Army
Property Number: 2195220334–219220337
Status: Unutilized
Reason: Detached Lavoratory

45 Bldgs., Fort Benning
Ft. Benning Co: Muscogee GA 31905
Landholding Agency: Army
Property Number: 219520150, 219610319–219610324, 219640041–219640044, 219640046, 219720017–219720024–219810028–219810032, 219810035, 219830071–219830092
Status: Unutilized
Reason: Extensive deterioration.

6 Bldgs.
Fort Gillem
Forest Park Co: Clayton GA 30050
Landholding Agency: Army
Property Number: 219310099, 219620815, 219730029–219730030, 219740015, 219830070
Status: Unutilized
Reason: (Some are extensively deteriorated.) (Most are in a secured area.)

6 Bldgs., Fort Stewart
Hinesville Co: Liberty GA 31314
Landholding Agency: Army
Property Number: 219630076–219630077, 219710237, 219740012–219740014
Status: Unutilized
Reason: Extensive Deterioration

5 Bldgs., Hunter Army Airfield
Savannah Co: Chatham GA 31409
Landholding Agency: Army
Property Number: 219610326, 219620413, 219630034, 219740010, 219830068
Status: Unutilized
Reason: Extensive deterioration

6 Bldgs., Fort McPherson
Ft. McPherson Co: Fulton GA 30330–5000
Landholding Agency: Army
Property Number: 219620803, 219730032–219730034, 219830069
Status: Underutilized
Reason: Secured Area

Hawaii

PU–01, 02, 03, 04, 05, 06, 07, 08, 09, 10, 11
Schofield Barracks
Kolekole Pass Road
Wahiawa Co: Wahiawa HI 96786–
Landholding Agency: Army
Property Number: 219014836–219014837
Status: Unutilized
Reason: Secured Area

P–3384
Schofield Barracks
Wahiawa Co: Wahiawa HI 96786–
Landholding Agency: Army

Property Number: 219030361
Status: Unutilized
Reason: Secured Area

2 Bldgs., Fort Shafter
Honolulu Co: Honolulu HI 96819
Landholding Agency: Army
Property Number: 219610350, 219740016
Status: Unutilized
Reason: Extensive deterioration

5 Bldgs.
Schofield Barracks
Wahiawa Co: Wahiawa HI 96786
Landholding Agency: Army
Property Number: 219420154, 219630080, 219640050–219640051, 219830093
Status: Unutilized
Reason: Extensive deterioration

5 Bldgs.
Wheeler Army Airfield
Wahiawa HI 96857
Landholding Agency: Army
Property Number: 219520039, 219610348, 219740017–219740019
Status: Unutilized
Reason: Secured Area (some are extensively deteriorated)

Illinois

609 Bldgs. and Groups
Joliet Army Ammunition Plant
Joliet Co: Will IL 60436–
Landholding Agency: Army
Property Number: 219010153–219010317, 219010319–219010407, 219010409–219040413, 219010415–219010439, 219011750–219011879, 219011881–219011908, 219012331, 219013076–219013138, 219014722–219014781, 219030277–219030278, 219040354, 219140441–219140446, 219210146, 219240457–219240465, 219330062–219330094
Status; Unutilized
Reason: Secured area; many within 2000 ft., of flammable or explosive materials; some within floodway

Bldgs. 58, 59, and 72, 69, 64, 105, 135
Rock Island Arsenal
Rock Island Co: Rock Island IL 61299–5000
Landholding Agency: Army
Property Number: 219110104–219110108, 219620427
Status: Unutilized
Reason: Secured Area

Bldgs. 133, 141 Rock Island Arsenal
Gilliespie Avenue
Rock Island Co: Rock Island IL 61299–
Landholding Agency: Army
Property Number: 219210100, 219620428
Status: Unutilized
Reason: Extensive deterioration

13 Bldgs. Savanna Army Depot Activity
Savanna Co: Carroll IL 61074
Landholding Agency: Army
Property Number: 219230126–219230127, 219430326–219430335, 219430397
Status: Unutilized
Reason: Extensive deterioration

12 Bldgs.
Charles Melvin Price Support Center
Granite City Co: Madison IL 62040
Landholding Agency: Army
Property Number: 219420182–219420184, 219510008, 219710096, 219740020, 219820027–219820030
Status; Unutilized
Reason: Secured Area, Extensive deterioration

Indiana

328 Bldgs.
Indiana Army Ammunition Plant (INAAP)
Charlestown Co: Clark IN 47111–
Landholding Agency: Army
Property Number: 219010913–219010920, 219010924–219010936, 219010952, 219010955, 219010957, 219010959–219010960, 219050962–219010964, 219040966–219010967, 219010969–219010970, 219011449, 219044454, 219011456–219011457, 219011459–219011464, 219013764, 219013848, 219014608–219014653, 219014655–219014661, 219014663–219014683, 219030315, 219120168–219120171, 219140425–219140440, 219210152–219210155, 219230034–219230037, 219320036–219320111, 219420170–219420181, 219440159–219440163, 219610367–219610413, 219620435–219620452
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosives material (Most are within a secured area.)

180 Bldgs.
Newport Army Ammunition Plant
Newport Co: Vermillion IN 47966–
Landholding Agency: Army
Property Number: 219011584, 219011586–219011587, 219011589–219011590, 219011592–219011627, 219011629–219011636, 219011638–219011641, 219210149–219210151, 219220220, 219230032–219230033, 219430336–219430338, 219520033, 219520042, 219530075–219530097, 219740021–219740026, 219820031–219820032
Status: Unutilized
Reason: Secured Area (Some are extensively deteriorated.)

2 Bldgs.
Atterbury Reserve Forces Training Area
Edinburgh Co: Johnson IN 46124–1096
Landholding Agency: Army
Property Number: 219230030–219230031
Status: Unutilized
Reason: Extensive deterioration

Bldg. 2635, Indiana Army Ammunition Plant
Charlestown Co: Clark IN 47111
Landholding Agency: Army
Property Number: 219240322
Status: Unutilized
Reason: Secured Area, Extensive deteroriation

22 Bldgs., Camp Atterbury
Edinburgh IN 46124
Landholding Agency: Army
Property Number: 219610351–219610366, 219620429–219620434
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Iowa

97 Bldgs.
Iowa Army Ammunition Plant
Middletown Co: Des Moines IA 52638–
Landholding Agency: Army
Property Number: 219012605–219012607, 219012609, 219012611, 219012613, 219012615, 219012620, 219012622, 219012624, 219013706–219013738, 219120172–219120174, 219440112–219440158, 219510089, 219520002, 219520070, 219610414, 219740027
Status: Unutilized
Reason: (Many are in a Secured Area) (Most are within 2000 ft. of flammable or explosive material.)

30 Bldgs., Iowa Army Ammunition Plant
Middletown Co: Des Moines IA 52638
Landholding Agency: Army
Property Number: 219230005–219230029, 219310017, 219330061, 219340091, 219520053, 219520151
Status: Unutilized
Reason: Extensive deterioration

Kansas

37 Bldgs.
Kansas Army Ammunition Plant
Production Area
Parsons Co: Labette KS 67357–
Landholding Agency: Army
Property Number: 219011909–219011945
Status: Unutilized
Reason: Secured Area
(Most are within 2000 ft. of flammable or explosive material)

205 Bldgs.
Sunflower Army Ammunition Plant
35425 W. 103rd Street
DeSoto Co: Johnson KS 66018–
Landholding Agency: Army
Property Number: 219040039, 219040045, 219040048–219040051, 219040053, 219040055, 219040063–219040067, 219040072–219040080, 219040086–219040099, 219040102, 219040111, 219040121–219040124, 219040126, 219040128–219040133, 219040136–219040137, 219040139–219040140, 219040143, 219040149–219040154, 219040156, 219040160–219040161, 219040168–219040170, 219040180, 219040182–219040185, 219040190–219040191, 219040202, 219040205–219040207, 219040208, 219040210–219040221, 219040234–219040239, 219040241–219040254, 219040256–219040257, 219040260, 219040262–219040265, 219040270–219040279, 219040282–219040319, 219040321–219040322, 219040325–219040327, 219040330–219040335, 219040349, 219040353, 219110073, 219140573–219140577, 219140580–219140591, 219140599, 219140606–219140612, 219420185–219420187
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Floodway; Secured Area

21 Bldgs.
Sunflower Army Ammunition Plant
35425 W. 103rd Street
DeSoto Co: Johnson KS 66018–
Landholding Agency: Army
Property Number: 219040007–219040008, 219040010–219040012, 219040014–219040027, 219040030–219040031
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Floodway

15 Bldgs.
Fort Riley

Ft. Riley Co: Geary KS 66442–
Landholding Agency: Army
Property Number: 219430040, 219610620–219610626, 219620825–219620826, 219630085, 219810036
Status: Unutilized
Reason: Extensive deterioration.

11 Latrines
Sunflower Army Ammunition Plant
35425 West 103rd
DeSoto Co: Johnson KS 66018–
Landholding Agency: Army
Property Number: 219140578–219140579, 219140593, 219140595–219140598, 219140602–219140605
Status: Unutilized
Reason: Detached Latrine

65 Bldgs., Sunflower Army Ammunition Plant
DeSoto Co: Johnson KS 66018
Landholding Agency: Army
Property Number: 219240333–219240383, 219240389, 219240394, 219240410–219240416, 219240420, 219240434–219240437
Status: Unutilized
Reason: Secured Area, Within 2000 ft. of flammable or explosive material Extensive deterioration

121 Bldgs.
Kansas Army Ammunition Plant
Parsons Co: Labette KS 67357
Landholding Agency: Army
Property Number: 219620518–219620638
Status: Unutilized
Reason: Secured Area

Bldgs. P–177, P–417
Fort Leavenworth
Leavenworth KS 66027
Landholding Agency: Army
Property Number: 219740028–219740029
Status: Unutilized
Reason: Extensive deterioration Sewage pump station

7 Bldgs., Fort Riley
Ft. Riley KS 66442
Location: T9202, 9206, 9222, 9226, 9242, 9262, 9266
Landholding Agency: Army
Property Number: 219810037
Status: Unutilized
Reason: detached latrines

Kentucky

Bldg. 126
Lexington-Blue Grass Army Depot
Lexington Co: Fayette KY 40511–
Location: 12 miles northeast of Lexington, Kentucky
Landholding Agency: Army
Property Number: 219011661
Status: Unutilized
Reason: Secured Area. Sewage treatment facility

Bldg. 12
Lexington-Blue Grass Army Depot
Lexington Co: Fayette KY 40511–
Location: 12 miles Northeast of Lexington Kentucky
Landholding Agency: Army
Property Number: 219011663
Status: Unutilized
Reason: Industrial waste treatment plant.

18 Bldgs., Fort Knox
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219320113–219320115, 219410146, 219630081, 219820033–219820034, 219830094–219830104
Status: Unutilized
Reason: Extensive deterioration

20 Bldgs., Fort Campbell
Ft. Campbell Co: Christian KY 42223
Landholding Agency: Army
Property Number: 219730038, 219730044–219730052, 219740030–219740038, 219810038
Status: Unutilized
Reason: Extensive deterioration

Louisiana

536 Bldgs.
Louisiana Army Ammunition Plant
Doylin Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219011668, 219011670, 219011714–219011716, 219011735–219011737, 219012112, 219013572, 219013863–219013869, 219110127, 219110131, 219110136, 219240138–219240148, 219420332, 219610049–219610263, 219620002–219620200, 219620746–219620801, 219820044–219820078
Status: Unutilized
Reason: Secured Area. (Most are within 2000 ft. of flammable or explosive material). (Some are extensively deteriorated)

37 Bldgs., Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–7100
Landholding Agency: Army
Property Number: 219430339, 219520059, 219810039–219810061, 219820035–219820043, 219830105–219830108
Status: Unutilized
Reason: Extensive deterioration. (Some are in Floodway.)

Maine

Reserve Ctr. Bldg. & 5 acres
Slager Memorial USAR Center
Union Street
Bangor Co: Penobscot ME 04401–3011
Landholding Agency: Army
Property Number: 219710097
Status: Unutilized
Reason: Within airport runway clear zone

Maintenance Bldg.
Slager Memorial USAR Center
Union Street
Bangor Co: Penobscot ME 04401–3011
Landholding Agency: Army
Property Number: 219710098
Status: Unutilized
Reason: Within airport runway clear zone

Maryland

187 Bldgs.
Aberdeen Proving Ground
Aberdeen City Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 219011406–219011417, 219012610, 219012612, 219012614, 219012616–219012617, 219012619, 219012625–219012629, 219012631, 219012633–219012634, 219012637–219012642, 219012645–219012651, 219012655–219012664, 219013773, 219014711–219014712, 219110140, 219530128–219530129, 219610476–219610483,219610485, 219610489–219610490, 219620467–219620470, 219630091–219630095, 219710099, 219730070–219730084, 219740061, 219740063–219740066, 219810070–219810127, 219820080–219820096, 219830111–219830114
Status: Unutilized
Reason: Most are in a secured area. (Some are within 2000 ft. of flammable or explosive material). (Some are in a floodway) (Some are extensively deteriorated)

43 Bldgs. Ft. George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army
Property Number: 219130059, 219140460–219140461, 219310031, 219710185–219710192, 219740067–219740089, 219810063–219810069
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 132 Fort Ritchie
Ft. Ritchie Co: Washington MD 21719–5010
Landholding Agency: Army
Property Number: 219330109
Status: Underutilized
Reason: Secured Area

Bldg. P–1001 Fort Detrick
Frederick Co: Frederick MD 21762–5000
Landholding Agency: Army
Property Number: 219830110
Status: Unutilized
Reason: Secured Area. Extensive deterioration

Massachusetts

Material Technology Lab
405 Arsenal Street
Watertown Co: Middlesex MA 02132–
Landholding Agency: Army
Property Number: 219120161
Status: Underutilized
Reason: Within 2000 ft. of flammable or explosive material. Floodway, Secured Area

Bldg. 3462, Camp Edwards
Massachusetts Military Reservation
Bourne Co: Barnstable MA 02462–5003
Landholding Agency: Army
Property Number: 219230095
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldgs. 3596, 1209–1211 Camp Edwards
Massachusetts Military Reservation
Bourne Co: Barnstable MA 02462–5003
Landholding Agency: Army
Property Number: 219230096, 219310018–219310020
Status: Unutilized
Reason: Secured Area

Bldg. 101
Hudson Family Housing
U.S. Army Soldier Systems Command
Hudson Co: Middlesex MA 01749
Landholding Agency: Army
Property Number: 219730037
Status: Unutilized
Reason: Extensive deterioration

Facility No. 0G001
LTA Granby
Granby Co: Hampshire MA
Landholding Agency: Army
Property Number: 219810062
Status: Unutilized
Reason: Extensive deterioration

Bldg. 13
U.S. Army Soldier Systems Command
Natick Co: Middlesex MA 01760
Landholding Agency: Army
Property Number: 219820079
Status: Unutilized
Reason: Extensive deterioration

Bldgs. T–2446, T–2479
Devens RFTA
Devens RFTA MA 01432
Landholding Agency: Army
Property Number: 219830109
Status: Unutilized
Reason: Secured Area

Michigan

Detroit Arsenal Tank Plan
28251 Van Dyke Avenue
Warren Co: Macomb MI 48090–
Landholding Agency: Army
Property Number: 219014605
Status: Underutilized
Reason: Secured Area

Bldgs. 5755–5756
Newport Weekend Training Site
Carleton Co: Monroe MI 48166
Landholding Agency: Army
Property Number: 219310060–219310061
Status: Unutilized
Reason: Secured Area, Extensive deterioration

25 Bldgs.
Fort Custer Training Center
2501 26th Street
Augusta Co: Kalamazoo MI 49102–9205
Landholding Agency: Army
Property Number: 219014947–219014963, 219140447–219140454
Status: Unutilized
Reason: Secured Area

Bldgs. 917–919
U.S. Army Garrison—Selfridge
Selfridge Air National Guard
Mt. Clemens MI 48045–5018
Landholding Agency: Army
Property Number: 219740090–219740092
Status: Unutilized
Reason: Secured Area

Minnesota

169 Bldgs.
Twin Cities Army Ammunition Plant
New Brighton Co: Ramsey MN 55112–
Landholding Agency: Army
Property Number: 219120165–219120166, 219210014–219210015, 219220227–219220235, 219240328, 219310055–219310056, 219320145–219320156, 219330096–219330108, 219340015, 219410159–219410189, 219420195–219420284, 219430059–219430064
Status: Unutilized
Reason: Secured Area, (Most are within 2000 ft. of flammable or explosive material.) (Some are extensively deteriorated.)

Mississippi

Bldg. 8301
Mississippi Army Ammunition Plant
Stennis Space Center Co: Hancock MS 39529–7000
Landholding Agency: Army
Property Number: 219040438
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material. Secured Area

Missouri

Lake City Army Ammo. Plant
59, 59A, 59C, 59B, 18, 94, 149, T201, 6A, 6C, 6D, 6E, 6F
Independence Co: Jackson MO 64050–
Landholding Agency: Army
Property Number: 219013666–219013669, 219530134–219530138
Status: Unutilized
Reason: Secured Area. (Some are within 2000 ft. of flammable or explosive material)

9 Bldgs.
St. Louis Army Ammunition Plant
4800 Goodfellow Blvd.
St Louis Co: St. Louis MO 63120–1798
Landholding Agency: Army
Property Number: 219120067–219120068, 219610469–219610475
Status: Unutilized
Reason: Secured Area. (Some are extensively detoriorated.)

12 Bldgs.
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219140422–219140423. 219430070–219430078, 219830115–219830116
Status: Underutilized
Reason: Within 2000 ft. of flammable or explosive material. (Some are extensively deteriorated.)

Montana

19 Bldgs.
Fort Harrison
Ft. Harrison Co: Lewis/Clark MT 59636
Landholding Agency: Army
Property Number: 219620473–219620475, 219740093–219740101
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material. Extensive deterioration

Nevada

7 Bldgs.
Hawthorne Army Ammunition Plant
Hawthorne Co: Mineral NV 89415–
Landholding Agency: Army
Property Number: 219011953, 219011955, 219012061–219012062, 219012106, 219013614, 219230090
Status: Unutilized
Reason: Secured Area

Bldg. 396
Hawthorne Army Ammunition Plant
Bachelor Enlisted Qtrs W/Dining Facilities
Hawthorne Co: Mineral NV 89415–
Location: East side of Decatur Street-North of Maine Avenue
Landholding Agency: Army
Property Number: 219011997
Status: Unutilized
Reason: Within airport runway clear zone. Secured Area.

51 Bldgs.
Hawthorne Army Ammunition Plant
Hawthorne Co: Mineral NV 89415–
Landholding Agency: Army
Property Number: 219012009, 219012013, 219012021, 219012044, 219013615–219013651, 219013653–219013656, 219013658–219013661, 219013663, 219013665
Status: Underutilized
Reason: Secured Area. (Some within airport runway clear zone; many within 2000 ft. of flammable or explosive material)

62 Concrete Eplo. Mag. Stor.
Hawthorne Army Ammunition Plant
Hawthorne Co: Mineral NV 89415–
Location: North Mag. Area
Landholding Agency: Army
Property Number: 219120150
Status: Unutilized
Reason: Secured Area 259 Concrete Explo. mag. Star.

Hawthorne Army Ammunition Plant
Hawthorne Co: Mineral NV 89415–
Location: South Mag. Areas
Landholding Agency: Army
Property Number: 219120151
Status: Unutilized
Reason: Secured Area

Facility No. 00A38
Hawthorne Army Ammunition Plant
Hawthorne Co: Mineral NV 89415–
Landholding Agency: Army
Property Number: 219330119
Status: Unutilized
Reason: Extensive deterioration
Group 101, 34 Bldgs.
Hawthorne Army Annunition Plant Co: Mineral NV 89415–0015
Landholding Agency: Army
Property Number: 219830132
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material. Secured Area

New Jersey

242 Bldgs.
Armament Res. Dev. & Eng. Ctr.
Picatinny Arsenal Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 219010440–219010474. 219010476, 219010478, 219010639–219010665, 219010669–219010721, 219012423–219012424, 219012426–219012428, 219012430–219012431, 219012433–219012466, 219012469–219012472, 219012474–219012475, 219012758–219012760, 219012763–219012767, 219013787, 219014306–219014307, 219014311, 219014313–219014321, 219140617, 219230119–219230125, 219240315, 219420001–219420002, 21942006–219420008, 219510003–219510004, 219530142–219530151, 219540002–219540007, 219620476, 219640480–219640482, 219740108–219740127, 219820097
Status: Excess
Reason: Secured Area. (Most are within 2000 ft. of flammable or explosive material.) (Some are extensively deteriorated) (Some are in a floodway)

13 Bldgs., Military Ocean Terminal
Bayonne Co: Hudson NJ 07002–
Landholding Agency: Army
Property Number: 219013890–219013896, 219330141–219330143, 219430001, 219440200, 219520149
Status: Unutilized
Reason: Flodway. Secured area.

Structure 403B
Armament Research, Dev. & Eng. Center
Picatinny Arsenal Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 219510001
Status: Unutilized

Reason: Drop Tower

21 Bldgs., Fort Dix
Ft. Dix Co: Burlington NJ 08640–5505
Landholding Agency: Army
Property Number: 219830123–219830130
Status: Unutilized
Reason: Extensive deterioration

New Mexico

24 Bldgs.
White Sands Missile Range
White Sands Co: Dona Ana NM 88802
Landholding Agency: Army
Property Number: 219330144–219330147, 219430126–219430127, 219810138–219810152, 219820098–219820100
Status: Unutilized
Reason, Extensive Deterioration

New York

Bldgs. 110, 143, 2084, 2105, 2110
Seneca Army Depot
Romulus Co: Seneca NY 14541–5001
Landholding Agency: Army
Property Number: 219240439, 219240440–219240443
Status: Unutilized
Reason: Secured Area. Extensive deterioration

Bldgs. 3008
Stewart Army Subpost
New Windsor Co: Orange NY 12553
Landholding Agency: Army
Property Number: 219420285
Status: Unutilized
Reason: Extensive deterioration

Parcel 19
Stewart Army Subpost, U.S. Military Academy
New Windsor Co: Orange NY 12553
Landholding Agency: Army
Property Number: 219730098
Status: Unutilized
Reason: Within airport runway clear zone

Bldgs. 12, 107
Watervliet Arsenal
Watervliet NY
Landholding Agency: Army
Property Number; 219730099–219730100
Status: Unutilized
Reason: Extensive deterioration

Bldg. 146
Watervliet Arsenal Co: Albany NY 12189–4050
Landholding Agency: Army
Property Number; 219830131
Status: Unutilized
Reason: Secured Area

North Carolina

806 Bldgs.
Fort Bragg
Ft. Bragg Co: Cumberland NC 28307
Landholding Agency: Army
Property Number: 219440295, 219530156–219530165, 219610495–219610500, 219610512–219610513, 219610517–219610518, 219610524–219610526, 219620478–219620480, 219630099–219630103, 219630107, 219640064, 219640074, 219640085, 219640094, 219640100–219640101, 219640125–219640127, 219710100–219710112, 219710223–219710224, 219730101–219730103, 219740102–219740107, 219810163–219810170, 219830117–219830122
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 16, 139, 216, 273
Military Ocean Terminal
Southport Co: Brunswick NC 28461–5000
Landholding Agency: Army
Property Number: 219530155, 219810158–219810160
Statis: Unutilized
Reason: Secured Area

Ohio

63 Bldgs.
Ravenna Army Ammunition Plant
Ravenna Co: Portage OH 44266–9297
Landholding Agency: Army
Property Number: 219012476–219012507, 219012509–219012513, 219012515, 219012517–219012518, 219012520, 219012522–219012523, 219012525–219012528, 219012530–219012532, 219012534–219012535, 219012537, 219013670–210013677, 219013781, 219210148
Status: Unutilized
Reason: Secured Area

7 Bldgs.
Lima Army Tank Plant
Lima OH 45804–1898
Landholding Agency: Army
Property Number: 219730104–219730110
Status: Unutilized
Reason: Secured Area

10 Bldgs.
Defense Supply Center
Columbus Co: Franklin OH 43216–5000
Landholding Agency: Army
Property Number: 219740128, 219810171, 219820101, 219830133–21983134
Status: Unutilized
Reason: Extensive deterioration

Oklahoma

546 Bldgs.
McAlester Army Ammunition Plant
McAlester Co: Pittsburg OK 74501–5000
Landholding Agency: Army
Property Number: 219011674, 219011680, 219011684, 219011687, 219012113, 219013981–219013991, 219013994, 219014081–219014102, 219014104, 219014107–219014137, 219014141–219014159, 219014162, 219014165–219014216, 219014218–219014274, 219014336–219014559, 219030007–219030127, 219040004
Status: Underutilized
Reason: Secured Area. (Some are within 2000 ft. of flammable or explosive material)

10 Bldgs.
Fort Sill
Lawton Co: Comanche OK 73503–
Landholding Agency: Army
Property Number: 219140529, 219140548, 219140550, 219440309, 219510023, 219610529, 219730342
Status: Unutilized
Reason: Extensive deterioration

33 Bldgs.
McAlester Army Ammunition Plant
McAlester Co: Pittsburg OK 74501
Landholding Agency: Army
Property Number: 219310050–219310053, 219320170–219320171, 219330149–219330160, 219430122–219430125, 219620485–219620490, 219630110–219630111, 219810174–219810176
Status: Unutilized
Reason: Secured Area. (Some are extensively deterioriated)

Oregon

11 Bldgs.
Tooele Army Depot
Umatilla Depot Activity
Hermiston Co: Morrow/Umatilla OR 97838–
Landholding Agency: Army
Property Number: 219012174–219012176, 219012178–219012179, 219012190–219012191, 219012197–219012198, 219012217, 219012229
Status: Underutilized
Reason: Secured Area

23 Bldgs.
Tooele Army Depot
Umatilla Depot Activity
Hermiston Co: Morrow/Umatilla OR 97838–
Landholding Agency: Army
Property Number: 219012177, 219012185–219012186, 219012189, 219012195–219012196, 219012199–219012205, 219012207–219012208, 219012225, 219012279, 219014304–219014305, 219014782, 219030362–219030363, 219120032
Status: Unutilized
Reason: Secured Area

Pennsylvania

Bldg. 82001, Reading USARC
Reading Co: Berks PA 19604–1528
Landholding Agency: Army
Property Number: 219320173
Status: Unutilized
Reason: Extensive deterioration

Bldg. T–6851, Carlisle Barracks
Carlisle Co: Cumberland PA 17013
Landholding Agency: Army
Property Number: 219610530
Status: Unutilized
Reason: Extensive deterioration

76 Bldgs.
Fort Indiantown Gap
Annville Co: Lebanon PA 17003–5011
Landholding Agency: Army
Property Number: 219640337, 219720093, 219730116–219730128, 219740129–219740132, 219740134, 219740137, 219810177–219810194, 219830137–219830138
Status: Unutilized
Reason: Extensive deterioration

Bldg. 21
Defense Distribution Depot
New Cumberland Co: York PA 17070–5001
Landholding Agency: Army
Property Number: 219830135
Status: Unutilized
Reason: Secured Area. Extensive deterioration

Tobyhanna Village Apts.
200-units, Tobyhanna Army Depot
Tobyhanna PA
Landholding Agency: Army
Property Number: 219830136
Status: Unutilized
Reason: Extensive deterioration

South Carolina

119 Bldgs., Fort Jackson
Ft. Jackson Co: Richland SC 29207

Landholding Agency: Army
Property Number: 219440237, 219440239, 219510017, 219620306, 219620312, 219620317, 219620322, 219620347–219620351, 219620358, 219620368, 219640138–219640152, 219640167, 219640485, 219720095–219720107, 219730130–219730159, 219740138, 219820102–219820111, 219830139–219830157
Status: Unutilized
Reason: Extensive deterioration

Tennessee

48 Bldgs.
Volunteer Army Ammo. Plant
Chattanooga Co: Hamilton TN 37422–
Landholding Agency: Army
Property Number: 219010475, 219010483, 219010490–219010493, 219010497–219010499, 219240127–219240136, 219420304–219420307, 219430099–219430104, 219610545, 219640169–219640170, 219710255–219710226, 219720109, 219820112–219820118, 219830158–219830160
Status: Unutilized/Underutilized
Reason: Secured Area. (Some are within 2000 ft. of flammable or explosive material). (Some are extensively deteriorated)

32 Bldgs.
Holston Army Ammunition Plant
Kingsport Co: Hawkins TN 61299–6000
Landholding Agency: Army
Property Number: 219012304–219012309, 219012311–219012312, 219012314, 219012316–219012317, 219012319, 219012325, 219012328, 219012330, 219012332, 219012334–219012335, 219012337, 219013789–219013790, 219030266, 219140613, 219330178, 219440212–219440216, 219510025–219510028
Status: Unutilized
Reason: Secured Area. (Some are within 2000 ft. of flammable or explosive material)

10 Bldgs.
Milan Army Ammunition Plant
Milan Co: Gibson TN 38358
Landholding Agency: Army
Property Number: 219240447–219240449, 219320182–219320184, 219330176–219330177, 219520034, 219740139
Status: Unutilized
Reason: Secured Area

Bldg. Z–183A
Milan Army Ammunition Plant
Milan Co: Gibson TN 38358
Landholding Agency: Army
Property Number: 219240783
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material

Texas

18 Bldgs.
Lone Star Army Ammunition Plant
Highway 82 West
Texarkana Co: Bowie TX 75505–9100
Landholding Agency: Army
Property Number: 219012524, 219012529, 219012533, 219012536, 219012539–219012540, 219012542, 219012544–219012545, 219030337–219030345
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material. Secured Area

95 Bldgs.
Longhorn Army Ammunition Plant
Karnack Co: Harrison TX 75661–
Location: State Highway 43 north
Landholding Agency: Army
Property Number: 219012546, 219012548, 219610553–219610584, 219610635, 219620243–219620291, 219620827–219620837
Status: Unutilized
Reason: Secured Area. (Most are within 2000 ft. of flammable or explosive material)

27 Bldgs., Red River Army Depot
Texarkana Co: Bowie TX 75507–5000
Landholding Agency: Army
Property Number: 219230110–219230115, 219330163, 219420314–219420327, 219430093–219430097, 219440217
Status: Unutilized
Reason: Secured Area. (Some are extensively deteriorated)

Bldg. T–5000
Camp Bullis
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219220100
Status: Underutilized
Reason: Within 2000 ft. of flammable or explosive material

42 Bldgs., Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219330473, 219610549, 219640172, 219640177, 219640182, 219730187–219730193, 219810197–21981021, 219830198–219830205
Status: Unutilized
Reason: Extensive Deterioration

Bldgs. T–2916, T–3180, T–3192, T–3398, T–2915
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219330476–219330479, 219640181
Status: Unutilized
Reason: Detached latrines

98 Bldgs. Fort Bliss
El Paso Co: El Paso TX 79916
Landholding Agency: Army
Property Number: 219640490–219640492, 219730160–219730186, 219740146, 219830161–219830197
Status: Unutilized
Reason: Extension Deterioration

Starr Ranch, Bldg. 703B
Longhorn Army Ammunition Plant
Karnack Co: Harrison TX 75661
Landholding Agency: Army
Property Number: 219640186, 219640494
Status: Unutilized
Reason: Floodway

Utah

3 Bldgs.
Tooele Army Depot
Tooele Co: Tooele UT 84074–5008
Landholding Agency: Army
Property Number: 219012153, 219012166, 219030366
Status: Unutilized
Reason: Secured Area

10 Bldgs.
Tooele Army Depot
Tooele Co: Tooele UT 84074–5008
Landholding Agency: Army
Property Number: 219012143–219012144, 219012148–219012149, 219012152, 219012155, 219012156, 219012158, 219012751, 219240267
Status: Unutilized
Reason: Secured Area

3 Bldgs.
Dugway Proving Ground
Dugway Co: Tooele UT 84022–
Landholding Agency: Army
Property Number: 219013997, 219130012, 219130015
Status: Underutilized
Reason: Secured Area

16 Bldgs.
Dugway Proving Ground
Dugway Co: Tooele UT 84022–
Landholding Agency: Army
Property Number: 219330181–219330182, 219330185, 219420328–219420329, 219710227–219710228
Status: Unutilized
Reason: Secured Area

Bldg. 4520
Tooele Army Depot, South Area
Tooele Co: Tooele UT 84074–5008
Landholding Agency: Army
Property Number: 219240268
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 3102, 5145, 8030
Deseret Chemical Depot
Tooele UT 84074
Landholding Agency: Army
Property Number: 219820119–219820121
Status: Unutilized
Reason: Secured Area. Extensive deterioration

Virginia

320 Bldgs.
Radford Army Ammunition Plant
Radford Co: Montgomery VA 24141–
Landholding Agency: Army
Property Number: 219010833, 219010836, 219010839, 219010842, 219010844, 219010847–219010890, 219010892–219010912, 219011521–219011577, 219011581–219011583, 219011585, 219011588, 219011591, 219013559–219013570, 219110142–219110143, 219120071, 219140618–219140633, 219440219–219440225, 219510031–219510033, 219610607–219610608, 219830223–219830267
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material. Secured Area

13 Bldgs.
Radford Army Ammunition Plant
Radford Co: Montgomery VA 24141–
Landholding Agency: Army
Property Number: 219010834–219010835, 219010837–219010838, 219010840–219010841, 219010843, 219010845–219010846, 219010891, 219011578–219011580
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material. Secured Area. Latrine, detached structure

91 Bldgs.
U.S. Army Combined Arms Support Command

Fort Lee Co; Prince George VA 23801–
Landholding Agency: Army
Property Number: 219240107, 219330202–219330203, 219330210–219330211, 2129330219–219330220, 219330225–219330228, 219520062, 219610595, 219610597, 219620497, 219620505, 219620863–219620876, 219630115, 219640188–219640192, 219640497, 219640500, 219740154–219740160, 219810204, 219820127–219820128, 219830206–219830211
Status: Unutilized
Reason: Extensive deterioration. (Some are in a secured area.)

16 Bldgs.
Radford Army Ammunition Plant
Radford VA 24141
Landholding Agency: Army
Property Number: 219220210–219220218, 219230100–219230103, 219520037
Status: Unutilized
Reason: Secured Area

Bldg. B7103–01, Motor House
Radford Army Ammunition Plant
Radford VA 24141
Landholding Agency: Army
Property Number: 219240324
Status: Unutilized
Reason: Secured Area: Within 2000 ft. of flammable or explosive material. Extensive deterioration

Bldg. 171 Fort Monore
Ft. Monroe VA 23651
Landholding Agency: Army
Property Number: 219520051
Status: Unutilized
Reason: Extensive deterioration

56 Bldgs.
Red Water Field Office
Radford Army Ammunition Plant
Radford VA 24141
Landholding Agency: Army
Property Number: 219430341–219430396
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material. Secured Area

Bldgs. SS1238, TT806, T00399
Fort A. P. Hill
Bowling Green Co: Caroline VA 22427
Landholding Agency: Army
Property Number: 219510030, 219610588, 219630113
Status: Underutilized
Reason: Secured Area Extensive deterioration

Bldgs. 2013–00, B2013–00, A1601–00
Radford Army Ammunition Plant
Radford VA 24141
Landholding Agency: Army
Property Number: 219520052, 219530194
Status: Unutilized
Reason: Extensive deterioration

4 Bldgs., Fort Eustis
Ft. Eustis VA 23604
Landholding Agency: Army
Property Number: 219610587, 219740152–219740153, 219820129
Status: Unutilized
Reason: Extensive deterioration

10 Bldgs.
Fort Belvoir
Ft. Belvoir Co: Fairfax VA 22060–5116
Landholding Agency: Army
Property Number: 219830212–219830222
Status: Unutilized
Reason: Extensive deterioration

23 Bldgs.
Fort Story
Ft. Story Co: Princess Ann VA 23459
Landholding Agency: Army
Property Number: 219640506, 219710193, 219820122–219820126
Status: Unutilized
Reason: Extensive deterioration

Washington

159 Bldgs., Fort Lewis
Ft. Lewis Co: Pierce WA 98433–5000
Landholding Agency: Army
Property Number: 219610001, 219610006–219610007, 219610009–219610010, 219610012–219610013, 219610042–219610046, 219620509–219620517, 219640193, 219710194, 219720142–219720151, 219740161, 219810205–219810243, 219820130–219820132
Status: Unutilized
Reason: Secured Area. Extensive deterioration

Moses Lake U.S. Army Rsv Ctr
Grant County Airport
Moses Lake Co: Grant WA 98837
Landholding Agency: Army
Property Number: 219630118
Status: Unutilized
Reason: Within airport runway clear zone

11 Bldgs., Fort Lewis
Huckleberry Creek Mountain Training Site
Co: Pierce WA
Landholding Agency: Army
Property Number: 219740162–219740172
Status: Unutilized
Reason: Extensive deterioration

Bldgs. S–275, S–570, S–571
Fort Lawton
Seattle Co: King WA 98199
Landholding Agency: Army
Property Number: 219820133–219820134
Status: Unutilized
Reason: Secured Area. Extensive deterioration

Wisconsin

6 Bldgs.
Badger Army Ammunition Plant
Baraboo Co: Sauk WI 53913–
Landholding Agency: Army
Property Number: 219011094, 219011209–219011212, 219011217
Status: Underutilized
Reason: Within 2000 ft. of flammable or explosive material. Friable asbestos. Secured Area

154 Bldgs.
Badger Army ammunition Plant
Baraboo Co: Sauk WI 53913–
Landholding Agency: Army
Property Number: 219011104, 219011106, 219011108–219011113, 219011115–219011117, 219011119–219011120, 219011122–219011139, 219011141–2190111142, 219011144, 219011148–219011208, 219011213–219011216, 2190112128–219011234, 219011236, 219011238, 219011240, 219011242, 219011244, 219011247, 219011249, 219011251, 219011254, 219011256, 219011259, 219011263, 219011265, 219011268, 219011270, 219011275, 219011277, 219011280, 219011282, 219011284, 219011286, 219011290, 219011293, 219011295, 219011297, 219011300, 219011302, 219011304–219011311, 219011317, 219011319–219011321, 219011323
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material. Friable asbestos. Secured Area

4 Bldgs.
Badger Army Ammunition Plant
Baraboo Co: Sauk WI
Landholding Agency: Army
Property Number: 219013871–219013873, 219013875
Status: Underutilized
Reason: Secured Area

31 Bldgs.
Badger Army Ammunition Plant
Baraboo Co: Sauk WI
Landholding Agency: Army
Property Number: 219013876–219013878, 219220295–219220311, 219510058–219510068
Status: Unutilized
Reason: Secured Area.

316 Bldgs.
Badger Army Ammunition Plant
Baraboo Co: Sauk WI 53913–
Landholding Agency: Army
Property Number: 219210097–219210099, 219740184–219740271
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material. Secured Area.

61 Bldgs., Fort McCoy
US Hwy. 21
Ft. McCoy Co: Monroe WI 54656–
Landholding Agency: Army
Property Number: 219240217–219240234, 219310218–219310225, 219640195, 219730207, 219830268–219830269
Status: Unutilized
Reason: Extensive deterioration

Bldg. 6513–3
Badger Army Ammunition Plant
Baraboo Co: Sauk WI 53913
Landholding Agency: Army
Property Number: 219510057
Status: Unutilized
Reason: Detached Latrine

124 Bldgs.
Badger Army Ammunition Plant
Baraboo Co: Sauk WI 53913
Landholding Agency: Army
Property Number: 219510069–219510077
Status: Unutilized
Reason: Secured Area. Extensive deterioration

*Land (by State)*

Alabama

23 acres and 2284 acres
Alabama Army Ammunition Plant
110 Hwy. 235
Childersburg Co: Talladega AL 35044–
Landholding Agency: Army
Property Number: 219210095–219210096
Status: Excess
Reason: Secured Area

Illinois

Group 66A
Joliet Army Ammunition Plant
Joliet Co: Will IL 60436–

Landholding Agency: Army
Property Number: 219010414
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material. Secured Area

Parcel 1
Joliet Army Ammunition Plant
Joliet Co: Will IL 60436–
Location: South of the 811 Magazine Area, adjacent to the River Road.
Landholding Agency: Army
Property Number: 219012810
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material. Floodway

Parcel No. 2, 3
Joliet Army Ammunition Plant
Joliet Co: Will IL 60436–
Landholding Agency: Army
Property Number: 219013796–219013797
Status: Underutilized
Reason: Within 2000 ft. of flammable or explosive material. Floodway

Parcel No. 4, 5, 6
Joliet Army Ammunition Plant
Joliet Co: Will IL 60436–
Landholding Agency: Army
Property Number: 219013798–219013800
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material. Floodway

Indiana

Newport Army Ammunition Plant
East of 14th St. & North of S. Blvd.
Newport Co: Vermillion IN 47966–
Landholding Agency: Army
Property Number: 219012360
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material. Secured Area

Land—Plant 2
Indiana Army Ammunition Plant
Charlestown Co: Clark IN 47111
Landholding Agency: Army
Property Number: 219330095
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material

Maryland

Carroll Island, Graces Quarters
Aberdeen Proving Ground
Edgewood Area
Aberdeen City Co: Harford MD 21010–5425
Landholding Agency: Army
Property Number: 219012630, 219012632
Status: Underutilized
Reason: Floodway. Secured Area

Minnesota

Portion of R.R. Spur
Twin Cities Army Ammunition Plant
New Brighton Co: Ramsey MD 55112
Landholding Agency: Army
Property Number: 219620472
Status: Unutilized
Reason: Landlocked

New Jersey

Land
Armament Research Development & Eng. Center
Route 15 North
Picatinny Arsenal Co: Morris NH 07806–
Landholding Agency: Army
Property Number: 219013788
Status: Unutilized
Reason: Secured Area

Spur Line/Right of Way
Armament Rsch., Dev., & Eng. Center
Picatinny Arsenal Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 219530143
Status: Unutilized
Reason: Floodway

Ohio

0.4051 acres, Lot 40 & 41
Ravenna Army Ammunition Plant
Ravenna Co: Portage, OH 44266–9297
Landholding Agency: Army
Property Number: 219630109
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material

Oklahoma

McAlester Army Ammo. Plant
McAlester Army Ammunition Plant
McAlester Co: Pittsburg OK 74501–
Landholding Agency: Army
Property Number: 219014603
Status: Underutilized
Reason: Within 2000 ft. of flammable or explosive material

Texas

Land—Approx. 50 acres
Lone Star Army Ammunition Plant
Texarkana Co: Bowie TX 75505–9100
Landholding Agency: Army
Property Number: 219420308
Status: Unutilized
Reason: Secured Area

Land—all of block 1800
Fort Sam Houston
Portions of 1900, 3100, 3200
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219530184
Status: Excess
Reason: Floodway

Land—Harrison Bayou
Longhorn Army Ammunition Plant
Karnack Co: Harrison TX 75661
Landholding Agency: Army
Property Number: 219640187
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material. Floodway

Land—.036 acres
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219730202
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material

Virginia

Fort Belvoir Military Reservation—5.6 Acres
South Post located West of Pohick Road
Fort Belvoir Co: Fairfax VA 22060–
Location: Rightside of King Road
Property Number: 219012550
Status: Unutilized
Reason: Within airport runway clear zone. Secured Area

Wisconsin

Land
Badger Army Ammunition Plant
Baraboo Co: Suak WI 53913–
Location: Vacant land within plant boundaries.
Landholding Agency: Army
Property Number: 219013783
Status: Unutilized
Reason: Secured Area

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## Part III

# Environmental Protection Agency

**National Pollutant Discharge Elimination System (NPDES) Storm Water Multi-Sector General Permit Modification for Industrial Activities; Notice**

## ENVIRONMENTAL PROTECTION AGENCY

**[WH–FRL–6135–8]**

## Modification of the National Pollutant Discharge Elimination System (NPDES) Storm Water Multi-Sector General Permit for Industrial Activities

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

**ACTION:** Final modification of NPDES general permits; notice of interpretation.

**SUMMARY:** Today's action clarifies an interpretation of the technology-based effluent limitations applicable to point sources of ''mine drainage'' at active ore mining and dressing operations, which was contained in a recently-issued NPDES general permit for storm water associated with industrial activity. With this notice, EPA provides a more definitive interpretation of the applicability of those recently-issued general permits, specifically, as they apply to certain storm water discharges at active ore mining and dressing operations. To incorporate today's interpretation, EPA modifies the NPDES general permits issued by EPA Regions 1, 6, 9 and 10 because the Agency is the permit issuance authority in States in those Regions. EPA intends, however, that the interpretation apply nationwide in all EPA Regions.

**DATES:** These permit modifications shall be effective on September 8, 1998.

**ADDRESSES:** The complete administrative record for today's permit modification is available for public review the Water Docket MC–4101, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC, 20460.

**FOR FURTHER INFORMATION CONTACT:** For further information, contact Bryan Rittenhouse, Office of Wastewater Management, Office of Water at (202) 260–0592 or the appropriate EPA Regional Office. For EPA Region 1, covering discharges in the State of Maine and Federal Indian reservations in Maine, in the Commonwealth of Massachusetts and Federal Indian reservations in Massachusetts, in the State of New Hampshire and Federal Indian reservations in New Hampshire, as well as Federal Indian reservations in the States of Vermont, Connecticut, and Rhode Island, and Federal facilities in Vermont, contact Thelma Hamilton at (617) 565–3569. For EPA Region 6, covering discharges in the State of Texas and Federal Indian reservations in Texas, in the State of New Mexico and Federal Indian reservations in New Mexico (except Navajo Reservation lands, which are covered by EPA Region 9 and Ute Reservation lands, which are covered by EPA Region 8 and were not covered by the Multi-Sector General Permit), as well as Federal Indian reservations in Oklahoma and Louisiana, contact Brian Burgess at (214) 665–7534. For EPA Region 9, covering the State of Arizona and Federal Indian reservations in Arizona, and Federal Indian reservations in California (except the Hoopa Valley Tribe) and Nevada, as well as the Duck Valley, Fort McDermitt, Goshute Reservations and Navajo Reservations, each of which cross State boundaries, contact Eugene Bromley at (415) 744–1906. For EPA Region 10, covering the State of Alaska and Federal Indian reservations in Alaska, the State of Idaho and Federal Indian reservations in Idaho (except the Duck Valley Reservation, which is covered by EPA Region 9), Federal Indian reservations in Washington and Oregon (except the Fort McDermitt Reservation, which is covered by EPA Region 9), as well as Federal facilities in Washington, contact Joe Wallace at (206) 553–6645.

**SUPPLEMENTARY INFORMATION:**

**Authority:** EPA issues NPDES permits under the authority of CWA section 402, 33 U.S.C. section 1342. Today's modification is based on an interpretation of rules published under the authority of CWA sections 301, 304, 308, 402, and 501(a), 33 U.S.C. sections 1311, 1314, 1318, 1342, and 1361(a). Today's action modifies a table that was initially published in conjunction with NPDES permits for storm water associated with industrial activity issued pursuant to CWA section 402, 33 U.S.C. section 1342.

In today's notice, EPA announces its interpretation of the technology-based effluent limitations applicable to point sources of ''mine drainage'' at ore mining and dressing operations under the Clean Water Act (''CWA''). 33 U.S.C. § 1251 *et seq.* This interpretation updates and replaces an earlier interpretation published in the fact sheet for the final National Pollutant Discharge Elimination System (''NPDES'') Storm Water Multi-Sector General Permit for Industrial Activities at 60 FR 50804 (Sept. 29, 1995)(''Multi-Sector Permit''). The interpretation in today's notice replaces EPA's interpretation in Table G–4 of the Multi-Sector Permit regarding the applicability of the ''mine drainage'' provisions of regulations found at 40 CFR Part 440. 60 FR at 50897. Today's notice also supersedes and clarifies the interpretation that the Agency proposed at 62 FR 54950 (Oct. 22, 1997).

EPA reviewed the administrative record supporting the Part 440 regulations, as well as Agency statements made during the course of litigation over those regulations, and revises Table G–4 accordingly. In litigation challenging the Multi-Sector Permit, *National Mining Association* v. *EPA*, No. 95–3519 (8th Cir.), the National Mining Association (NMA) argued that the regulatory interpretation contained in Table G–4 was overly expansive and not supported by appropriate economic and technological evaluation. To support its argument, NMA cited Agency statements made during the course of litigation approximately twenty years earlier. These statements were not raised and presented to the Agency during the public comment period of the permit. In response to NMA's arguments in the current litigation, EPA has re-evaluated the underlying record supporting the Part 440 regulations and is supplementing its interpretation of the ''mine drainage'' provisions contained in Table G–4. Today's action supersedes the Agency interpretation contained in the Fact Sheet to the Multi-Sector Permit, as originally issued.

Upon review of those documents, the Agency believes the documents (including judicial case law) speak for themselves. Therefore, the Agency is proposing to withdraw portions of the Table that discuss applicability of the Part 440 regulations; i.e., those portions of the Table that do not specify applicability of the Multi-Sector permit. By today's action, EPA also expands the applicability of the Multi-Sector permit consistent with the interpretation in today's notice.

### I. Effluent Guidelines for Ore Dressing and Mining Point Source Category

#### *A. Background*

Congress enacted the Clean Water Act to establish a comprehensive program to ''restore and maintain the chemical, physical and biological integrity of the Nation's waters' through the reduction, and eventual elimination, of the discharge of pollutants into those waters. CWA § 101(a); 33 U.S.C. § 1251(a). To achieve its objective, the CWA provides for a permit program to control ''point source'' pollution. The CWA point source permitting program is known as the National Pollutant Discharge Elimination System (''NPDES''), under which EPA or authorized States issue permits for point source discharges. Except in accordance with an NPDES permit, a point source discharge of a pollutant is unlawful. CWA § 301(a); 33 U.S.C. § 1311(a). All NPDES permits must, at a minimum, contain technology-based effluent limitations established in effluent guidelines or standards or, if no such

guidelines have been established, limitations derived on the basis of best professional judgment.

Individual NPDES permits contain substantive restrictions, called ''effluent limitations,'' which are aimed at controlling the level of pollutants in point source discharges. CWA § 402(a); 33 U.S.C. § 1342(a). Effluent limitations may be ''technology-based'' or ''water quality-based.''[1] For some industrial point source categories, EPA has published technology-based effluent limitations that apply on a nationwide basis, pursuant to CWA §§ 304(b) and 306(b)(1)(B); 33 U.S.C. §§ 1314(b) and 1316(b)(1)(B).[2] These limitations are called national effluent limitations guidelines or standards. EPA has published best practicable control technology currently available (''BPT''), best conventional pollutant control technology (''BCT''), best available technology economically achievable (''BAT'') effluent guidelines, and new source performance standards (''NSPS'') for point sources in over fifty different industrial categories. Among the effluent guidelines and standards which EPA has established are those applicable to the ore mining and dressing industry. These guidelines are known as the ''Effluent Guidelines for the Ore Mining and Dressing Point Source Category'' (hereinafter referred to as the ''Guidelines''). The Guidelines are published at 40 CFR Part 440.

EPA first published the Guidelines on an interim final basis on November 6, 1975. 40 FR 51722. On July 11, 1978, after substantially expanding the data base supporting the Guidelines, and after considering comments submitted since initial promulgation, EPA republished the Guidelines in modified form. 43 FR 29771 (July 11, 1978). Both the initial and republished Guidelines established BPT effluent limitations for discharges for ore mining and dressing operations.

*B. Storm Water Regulation Under the Guidelines*[3]

The Guidelines establish industry-wide effluent limitations for two types of mine discharges: (1) mill discharges and (2) mine drainage. ''Mine drainage'' means ''any water drained, pumped, or siphoned from a mine.'' 40 CFR 440.132(h). A ''mine,'' in turn, is defined as:

*An active mining area*, including all land and property placed under, or above the surface of such land, used in or resulting from the work of extracting metal ore or minerals from their natural deposits by any means or method, including secondary recovery of metal ore from refuse or other storage piles, wastes, or rock dumps and mine tailings derived from the mining, cleaning, or concentration of metal ores. 40 CFR 440.132(g)(emphasis added). An ''active mining area,'' in turn, is defined as: A place where work or other activity related to the extraction, removal, or recovery of metal ore is being conducted, except, with respect to surface mines, any area of land on or in which grading has been completed to return the earth to desired contour and reclamation work has begun. 40 CFR 440.132(a).

1. Petition for Reconsideration

After EPA promulgated the Guidelines on July 11, 1978, a number of mining companies filed petitions for judicial review challenging the Guidelines. [The judicial challenges are discussed below.] During the pendency of its judicial challenge, one of those companies, Kennecott Copper Corporation (''Kennecott'') filed an administrative petition with EPA (dated September 26, 1978) requesting that the Agency reconsider and clarify the Guidelines. Kennecott amended its petition on November 9, 1978. Kennecott identified five areas of alleged deficiencies and concerns with the Guidelines. One of these issues related to the storm water runoff provisions of the Guidelines.

Kennecott objected to the storm water runoff provisions, which it argued were overly vague and capable of being interpreted in a manner that would violate applicable law. Among other things, Kennecott was particularly concerned about applicability of the Guidelines to what it referred to as ''non-process'' areas at mining operations. Kennecott further argued that the Guidelines, if applied in the manner suggested by Kennecott, would entail exorbitant costs not considered during the rule making. Kennecott presented EPA with cost estimates that Kennecott believed it would have to incur to comply with the Guidelines. Kennecott estimated costs to control storm water drainage flows from what Kennecott referred to as the ''process'' and ''non-process'' areas at two Kennecott mining operations, the Ray Mine and the Chino Mine. As discussed more fully below, the Agency's decision on Kennecott's petition is at the core of the NMA litigation over the Multi-Sector Permit.

In partial response to the Kennecott petition, EPA published a notice in the **Federal Register** that clarified the scope of the Guidelines' applicability to storm water runoff. 44 FR 7953–54 (Feb. 8, 1979). That Notice of Clarification explained that the Guidelines applied only to point sources in the active mining area. The Notice clarified EPA's interpretation that the ''mine drainage'' provisions applied to ''water which contacts an active mining area and flows into a point source.'' *Id.* EPA further explained that mining operations are not required to ''collect and contain diffuse storm [water] runoff which would not otherwise be collected in or does not otherwise drain into a point source.'' *Id.* at 7954. In other words, diffuse storm water (from an active mining area) that was collected or contained in, or that naturally flowed into, a point source was subject to the Guidelines. Other storm water drainage flows were not subject to the Guidelines.

EPA denied Kennecott's petition on February 21, 1979. In doing so, EPA relied in part on the Notice of Clarification. The decision on the reconsideration petition discussed the applicability of the Guidelines to Kennecott's Ray Mine. For storm water drainage flows from what Kennecott called ''non-process'' areas at the Ray Mine, EPA concluded that Kennecott would incur no additional costs. Kennecott had, for the purposes of its petition, defined ''non-process'' area to mean ''overburden dumps, material too low in mineral content even to leach, and exposed benches at the mine.'' Citing to the Notice of Clarification, EPA concluded that the definition of ''mine drainage'' did not include diffuse storm water runoff from overburden dumps and material too low in mineral content to leach. As that Notice of Clarification explained, ''[a]ll water which contacts an 'active mining area * * *' and either does not flow, or is not channeled by the operator, to a point source, is considered runoff, and it is not the regulations' intent to require the mine operator to collect and treat such runoff.'' 44 FR at 7954. On the matter of storm water contacting the exposed benches, EPA could not determine whether such discharges would constitute point source discharges and thus, concluded that the issue would best be addressed by the permitting

[1] Water quality based effluent limitations are included in permits when necessary to assure compliance with water quality standards.

[2] If no such guidelines have been established, technology-based limits are developed on a case-by-case basis based on the best professional judgment of the permit writer.

[3] The definitions of and discussion of these terms in this notice are within the use of these terms under the NPDES program and the Clean Water Act. These definitions are not specifically applicable to the use of these terms under other federal environmental laws, including under the Resources Conservation and Recovery Act, 42 U.S.C. §§ 6901, *et seq.* (RCRA) and its implementing regulations.

authority in the context of a permit proceeding.

2. Judicial Challenge

The Guidelines rule was ultimately upheld by the U.S. Court of Appeals for the Tenth Circuit. *Kennecott Copper Corp.* v. *EPA,* 612 F.2d 1232 (10th Cir. 1979). In affirming the Guidelines, the Tenth Circuit relied on the language of the Notice of Clarification and considered moot the Petitioner's challenges to storm water runoff provisions, which were based on the argument that the Guidelines were overly board and included ''nonpoint'' as well as ''point sources.'' *Kennecott Copper Corp.,* 612 F.2d at 1242. The court further found that ''* * * EPA is entirely within its authority in regulating [discharges of] storm runoff that falls within [the definition of] a 'point source.' '' *Id.* at 1243. Additionally, the court reasoned that the determination of whether a particular discharge constitutes a point source is best made in the context of permit proceedings, guided by the broad definition of ''point source'' provided in the CWA.[4] The Court recognized that it is ''unrealistic, if not altogether impossible'' to provide an ''absolute and unequivocal'' definition of ''point source'' and rule of applicability, further supporting case-by-case or site-specific determinations on applicability of the Guidelines.

Congress has purposefully phrased this definition broadly. This is as it should be given its contemplated applicability to literally thousands of pollution sources. To cast such definitions in absolute, unequivocal terms would be unrealistic, if not altogether impossible. As we observed in *American Petroleum Institute,* 540 F.2d at 1032: ''On the road to attainment of the no discharge objective some flexibility is needed.'' 612 F.2d at 1243.

The court did not say anything further in response to Kennecott's arguments complaining that the Guidelines would improperly regulate nonpoint source discharges at mine sites. The court did not rely on or cite to any other references in the administrative record before it. In response to any remaining arguments before it, the court simply noted that ''careful examination of petitioner's remaining arguments has persuaded us that they are without merit.'' *Id.* at 1243. Thus, the court either summarily rejected Kennecott's arguments that the Guidelines were vague and overly board, or affirmatively upheld the regulations against Kennecott's challenges based on reasons explained in the decision.[5]

While, over the course of the intervening years, the federal courts have refined their interpretations of ''point source,'' EPA's conclusions about point sources at mining operations has remained constant. In upholding the Guidelines in *Kennecott Copper Corp.,* the Tenth Circuit specifically cited to one of the seminal cases upon which courts rely for the proposition that the term ''point source'' should be interpreted broadly, *United States* v. *Earth Sciences, Inc.,* 599 F.2d 368 (10th Cir. 1979). 612 F.2d at 1241, 1243.

3. Subsequent Agency Action

Apart from the Agency statements made during the course of the *Kennecott Copper Corp.* litigation, EPA staff has not been able to locate evidence of subsequent Agency action referring to those statements. Since that time, EPA and authorized NPDES States have issued permits to a significant number of ore mining and dressing operations. Until the instant litigation, no party identified or presented any of the Agency litigation statements from the *Kennecott Copper Corp.* case to Agency personnel working with NPDES permits.

A subsequent judicial case, which EPA cited in the 1990 storm water regulations, further clarifies that storm water associated with industrial activity at mining sites may result in point source discharges. *See Sierra Club* v. *Abston Construction Co., Inc.,* 620 F.2d 41 (5th Cir. 1980); 55 FR at 47997. In that case, the court determined that whether a point source discharge was present due to rainfall causing sediment basin overflow and erosion of piles of discarded material, even without direct action by coal miners, was a question of fact. 620 F.2d at 45. The ultimate question was whether the discharge is from a ''discernible, confined, discrete conveyance,'' whether by gravitational or non-gravitational means. *Id.* It was irrelevant that operators did not construct the conveyances, so long as those conveyances were reasonably likely to be the means by which pollutants were ultimately deposited into a navigable body of water. *Id.* Conveyances of pollution formed either as a result of natural erosion or by material means may fit the statutory definition of point source. *Id.*

## II. NPDES Storm Water General Multi-Sector Permit for Industrial Activities

### *A. Background*

In 1987, Congress amended the CWA by adding, among other things, several provisions concerning the control of point source discharges composed entirely of storm water. In the 1987 amendments, Congress directed EPA to publish permit application regulations for ''discharges of storm water associated with industrial activity.'' CWA § 402(p)(4)(A), 33 U.S.C. § 1342(p)(4)(A). On November 16, 1990, EPA published those regulations. In doing so, EPA defined ''storm water'' as storm water runoff, snow melt runoff, and surface runoff and drainage. It also defined ''[s]torm water discharge associated with industrial activity'' to mean the discharge of pollutants from any conveyance which is used for collecting and conveying storm water and which is directly related to manufacturing, processing, or raw materials storage areas at an industrial plant. See 40 CFR 122.26(b)(14). Included among these discharges were discharges from conveyances at mining facilities, including from active and inactive mining operations that discharge storm water contaminated by contact with or that has come into contact with overburden. 40 CFR 122.26(b)(14)(iii). In the course of that rule making, in order to reconcile those application regulations with a statutory exemption from CWA section 402(l)(2), EPA noted that ''a permit application will be required when discharges of storm water runoff from mining operations come into contact with any overburden. * * *'' 55 FR 47990, 48032. Today's interpretation and permit modification implements those provisions.

Upon challenge, this part of the regulations was upheld by the U.S. Court of Appeals for the Ninth Circuit. *American Mining Congress* v. *EPA,* 965 F.2d 759 (9th Cir. 1992) (regulations upheld against industry challenge that the rules, among other things, imposed retroactive liability for storm water discharges from existing mine sites). The issues in that case are related to, but different from, the issues addressed in today's action. That case involved inactive mines; today's action involves active mining operations.

[4] ''Point source'' is defined at Clean Water Act § 502(14) to mean ''any discernible, confined, and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged. *See also* 40 CFR 122.2.

[5] In litigation over the Multi-Sector Permit, NMA now suggests that the 10th Circuit relied on the Agency statements concerning the status of storm water drainage flows at the Ray Mine to uphold the Guidelines and that the Agency cannot now conclude that the court independently found the storm water runoff provisions of the Guidelines acceptable. EPA disagrees. The court's decision never cites or discusses any of these statements.

The NPDES regulations for storm water describe three mechanisms by which dischargers of storm water associated with industrial activity could apply for permits. 40 CFR 122.26(c)(1). First, dischargers can apply for ''individual permits.'' Second, (prior to 1992) dischargers could apply for permits through a ''group application.'' Third, dischargers can apply for coverage under an ''EPA promulgated storm water general permit.'' Dischargers from numerous industries applied for permits through the group application process. Among them were dischargers from the ore mining and dressing industry.

On March 10, 1993, EPA accepted group applications from ore mining and dressing industry applicants and began processing those group applications. On November 19, 1993, EPA proposed to issue a single ''general'' permit (for each State where EPA issues permits) based on all of the group applications accepted and received from group applicants in various covered industries. 58 FR 61146, 61236–61251 (November 19, 1993). EPA issued that set of general permits on September 29, 1995, and took subsequent action concerning these general permits on February 9, 1996, February 20, 1996 and September 24, 1996. These general permits are entitled the NPDES Storm Water Multi-Sector General Permits for Industrial Activities (hereinafter referred to in the singular as the ''Multi-Sector Permit''). The Multi-Sector Permit applies in most States, Territories, and Indian Country where EPA administers the NPDES permitting program.

The Multi-Sector Permit contains requirements that are specifically tailored to the types of industrial activity occurring at facilities represented by various industry groups applicants. Unlike much of the Ore Mining and Dressing Guidelines, the Multi-Sector Permit incorporates narrative effluent limitations for storm water discharges. These narrative effluent limitations are referred to as ''best management practices'' (''BMPs''). BMPs are designed to represent the pollution reductions achievable through application of BAT and BCT. Permits include BMPs to control or abate the discharge of pollutants when, for example, numeric effluent limitations are infeasible. 40 CFR 122.44(k).

In addition to the narrative BMPs, the Multi-Sector Permit includes eligibility restrictions. Multi-Sector Permit Part I.B.3.(a)–(h), 60 FR at 51112. Discharges that do not comply with the eligibility restrictions are not authorized by the permit. For example, storm water discharges that the Agency has determined to be or may reasonably be expected to be contributing to a violation of a water quality standard are not authorized by the Multi-Sector Permit. Multi-Sector Permit Part I.B.3.f.

*B. Multi-Sector Permit Coverage of Mining Activity*

By its terms, the Multi-Sector Permit provides authorization for some storm water discharges from ore (metal) mining and dressing facilities. Authorization initially was limited, however, to storm water discharges from or off of: topsoil piles; offsite haul/access roads outside the active mining area; onsite haul roads if not constructed of waste rock or spent ore (except if mine drainage is used for dust control); runoff from tailings dams/dikes when not constructed of waste rock/tailings and no process fluids are present; concentration buildings, if no contact with material piles; mill sites, if no contact with material piles; chemical storage areas; docking facilities, if no excessive contact with waste product; explosive storage areas; reclaimed areas released from reclamation bonds prior to December 17, 1990; and partially/inadequately reclaimed areas or areas not released from reclamation bonds.

The Multi-Sector Permit covers discharges composed of entirely storm water flows, as well as certain allowable non-storm water discharges. 60 FR at 51114; Part III.A. The Multi-Sector Permit does not authorize point source dry weather discharges, such as from mine adits, tunnels, or contaminated springs or seeps, which are not storm water. *Id.*; Part III.A.2.a.; 60 FR at 51155. Note that such dry weather discharges are not affected by today's clarification.

Under the Multi-Sector Permit at Part I.B.3.g., permit coverage is available for storm water discharges covered by some, but not all, of the various effluent guidelines that address storm water, including, for example, some of the storm water discharges under the Mineral Mining and Processing Guidelines at 40 CFR Part 436. 60 FR at 51112. The Multi-Sector Permit does not, however, cover storm water discharges from point sources that are subject to the Ore Mining and Dressing Guidelines. 60 FR at 51155; Part XI.G.1.a.

Table G–4 of the Multi-Sector Permit, entitled ''Applicability of 40 CFR Part 440 Effluent Limitations Guidelines to Storm Water,'' identified various discharge sources associated with ore mining and dressing operations. The Table indicated EPA's view at that time concerning standards of regulatory control for those discharges. The different standards of regulatory control include: ''mine drainage'' effluent limitations guidelines, found in the Guidelines; ''mill discharge process water'' effluent limitations guidelines, also found in the Guidelines; ''storm water,'' which could, for example, be found in the Multi-Sector Permit; and ''unclassified,'' indicating discharges not regulated under the Guidelines or the Multi-Sector Permit.

As EPA said in adopting the Multi-Sector Permit: ''Table G–4 clarifies the applicability of the Effluent Limitations Guidelines found in 40 CFR Part 440. *This Table does not expand or redefine these Effluent Limitations Guidelines.*'' 60 FR at 50897 (emphasis added). EPA's intent in publishing Table G–4, therefore, was merely to reiterate the interpretation that EPA issued when it promulgated the Guidelines.

## III. Legal Challenge Concerning Table G–4

On October 10, 1995, the National Mining Association (hereinafter referred to as ''NMA'' or the ''Petitioners'') petitioned the U.S. Court of Appeals for the Eighth Circuit for judicial review of the Multi-Sector Permit. Specifically, Petitioners challenged EPA's determination that storm water runoff from a number of ancillary mine sources identified in Table G–4 of the Multi-Sector Permit would constitute sources of ''mine drainage'' under the Guidelines. The particular mining activities of concern include overburden piles, haul roads made of overburden and other ancillary mine areas. As noted above, EPA excluded storm water runoff from these sources from coverage under the Multi-Sector Permit. The Petitioners contended that this determination reflects a new, more expansive interpretation of the Guidelines.

NMA presented documents from the prior *Kennecott* litigation, namely: EPA's 1979 decision responding to Kennecott's petition for reconsideration of the Guidelines; a letter of EPA counsel which was attached to a decision responding to the Kennecott petition for reconsideration of the Guidelines; and a brief that EPA filed before the Tenth Circuit. NMA cited these documents to support its argument that EPA's interpretation prior to publishing the Multi-Sector Permit was that ''overburden'' (''waste rock/overburden piles'') and ancillary areas at mining operations would be outside the scope of the Guidelines. NMA asserted that certain entries in Table G–4 were incorrect to the extent that the table categorically identified discharges from such sources as covered by the Guidelines. NMA argued that, based on

EPA statements made during the course of the *Kennecott* litigation, *no* overburden-related areas are covered by the Guidelines.

EPA has reviewed the Agency statements made during the 1979 litigation challenging the Guidelines rule making. While disagreeing with NMA's categorical conclusion that no overburden-related areas are covered by the Guidelines, EPA believes the earlier Agency statements reflect an EPA interpretation that a storm water discharge from a waste rock or overburden piles would not be subject to the Guidelines unless: (1) it naturally drains (or is intentionally diverted) to a point source; and (2) combines with ''mine drainage'' that is otherwise regulated under the Part 440 regulations. Such a discharge would be subject to the Part 440 regulations if, however, it combined with either process waters (i.e., mill drainage) or other mine drainage. This clarification was not obvious from the face of Table G–4 as presented in the Multi-Sector Permit.

NMA's challenge to the Multi-Sector Permit is currently under the advisement of the Eighth Circuit. Both parties have submitted briefs. A coalition of citizens' interest groups, the Western Mining Action Project and Sierra Club Legal Defense Fund, also filed an *amicus curiae* brief with the Court. On March 10, 1997, the Eighth Circuit heard oral argument in *National Mining Association* v. *EPA*, No. 95–3519. At that time, counsel for EPA represented to the court that EPA intended to prepare a clarification of the Agency's interpretation of the technology-based effluent limitations applicable to point source discharges from various areas at ore mining and dressing operations. Today's notice provides that clarification and would revise the Table so that it reflects only sources to which the Permit would apply.

## IV. Interpretation

Upon fuller review of the underlying record, EPA now believes that, in 1978–79, the Agency did not consider certain point source discharges of storm water associated with ''waste rock and overburden'' to be subject to the Ore Mining and Dressing Guidelines. Specifically, EPA did not conduct a complete economic and technological assessment of diverting drainage flows from ''waste rock or overburden'' outside the active mining area into the active mining area. Therefore, the Agency did not consider such discharges to be sources of mine drainage. First, discharges from waste rock and/or overburden piles would be outside the scope of the Guidelines if they consist ''entirely of diffuse runoff which contacts overburden piles, which did not either normally flow to, or by design drain to a point source.'' Such diffuse runoff would not even be subject to the NPDES permit program if it was not added to waters of the United States through a discrete, confined, discernable conveyance. *See* 44 FR 7953 (Feb. 8, 1979). Second, such discharges would be outside the scope of the Guidelines if storm water runoff from waste rock and/or overburden-related sources does not combine with mine drainage otherwise subject to the Part 440 regulations. In light of the above, EPA believes that, to the extent that a reader could misinterpret the Table as categorically including all ''waste rock/overburden'' sources to be within the ''active mining area,'' Table G–4 did not accurately reflect the scope of the applicability of the Guidelines.

Today's action does not change in any way EPA's interpretation of the coverage of the Guidelines set forth in the 1979 Notice of Clarification, which provides that the Guidelines ''are not intended to require the operator to collect and contain diffuse storm water runoff which would not otherwise be collected in or does not otherwise drain into a point source.'' Today's notice articulates the 1979 interpretation to the fact situation contained in Table G–4 of the Multi-Sector Permit.

Discharges from overburden-related sources that do not combine with ''mine drainage'' otherwise subject to the Part 440 regulations are not covered by the Guidelines. Like all ''point source'' discharges, however, these discharges require NPDES permit authorization to be in compliance with the CWA. If these discharges are entirely composed of storm water (and are not covered by the Guidelines), then they may be authorized under an EPA general permit for storm water (if it otherwise meets the eligibility provisions), or an individual permit with BPJ-based controls, which may include either numeric limitations and/or narrative limitations (in the form of BMPs).

Discharges from haul roads constructed of waste rock or spent ore are subject to the Guidelines only if the discharge combines with ''mine drainage'' otherwise subject to the Part 440 regulations and the resulting storm water flows drain into a point source. Point source discharges consisting entirely of storm water from haul road-related sources would be addressed in the same manner as ''waste rock and overburden'' (see above). As noted above, such discharges would be outside the scope of the NPDES program if they consist entirely of diffuse runoff which does not flow to a point source.

EPA notes that NPDES permit coverage is still required when runoff from waste rock and overburden piles is channeled or drains to a point source. Under today's clarification, determinations about whether numeric effluent limitations similar to those in the Ore Mining and Dressing Guidelines should apply to discharges from overburden piles and haul roads are ones to be made on a site-by-site basis based on the ''best professional judgment'' of the permit writer (according to regulations at 40 CFR 125.3(d)). Such permits might include effluent limitations similar to the effluent limitations for ''mine drainage'' under the Guidelines. If determined feasible, EPA acknowledges that compliance with such limits may necessitate diversion of flows from such sources for treatment purposes. EPA provides additional guidance below.

## V. Guidance To Permit Applicants and Permit Writers

Based on the foregoing discussion, EPA is revising Table G–4 today. In its earlier form, Table G–4 could have been misinterpreted. Consistent with earlier EPA statements made in the preamble to the Guidelines, the Notice of Clarification and other documents discussed above, the Table G–4 references to discharges from ''waste rock/overburden'' and ''onsite haul roads constructed of waste rock or spent ore'' at active ore mining and dressing sites are hereby modified. The Agency does not consider those discharges to be subject to the Guidelines unless they combine with ''mine drainage'' otherwise subject to the Part 440 regulations and the resulting storm water flows drain into a point source. Although not compelled by the Guidelines, numeric effluent limitations may be appropriate for these discharges if the permit writer so determines on a BPJ basis or if the discharge would cause or contribute to a violation of water quality standards.

The term ''active mining area'' should be interpreted in accordance with the plain language of the regulations; however, application of the definition may vary from mine to mine. As the Tenth Circuit recognized in the *Kennecott Corp.* case, ''to cast such definitions in absolute, unequivocal terms would be unrealistic, if not altogether impossible.'' 612 F.2d at 1243. The regulations define ''active mining area'' as ''a place where work or other activity related to the extraction, removal, or recovery of metal ore is

being conducted, except, with respect to surface mines, any area of land on or in which grading has been completed to return the earth to desired contour and reclamation work has begun.'' 40 CFR 440.132(a).

Today's interpretation and guidance describe a distinct class of discharges that was not apparent from the face of Table G–4 when the Agency published the Multi-Sector Permit. Specifically, today's interpretation identifies some discharges that could have been interpreted to be ''mine drainage'' under the plain language of the Guidelines and, therefore, within the applicability of the Guidelines and ineligible for coverage under the ore mining and dressing portion of the Multi-Sector General Permit (and under Table G–4) even though the Agency did not evaluate the technological feasibility and cost impacts of diverting drainage from those sources into the active mining area when it developed the Ore Mining and Dressing Guidelines. Based on today's clarification, such an interpretation would be inaccurate because EPA did not require diversion of flows from outside the active mining area into the active mining area for treatment. For this class of discharges described by today's notice, i.e., those from overburden and/or waste rock sources that do not combine with mine drainage otherwise subject to the Part 440 regulations, authorization under a EPA general permit for storm water may be available subject to the eligibility restriction against storm water discharges that the Agency has determined to be or may reasonably be expected to be contributing to a violation of a water quality standard.

Note that the permit applicant bears the initial responsibility to determine whether its discharges are eligible for coverage under an EPA-issued general permit. Discharges of ''mine drainage'' from the ''active mining area'' are not eligible for authorization under either the NPDES Baseline General permit or the Multi-Sector Permit because such discharges are subject to the Guidelines. For this reason, EPA encourages permit applicants to contact the NPDES permit issuance authority if there is any doubt regarding the nature and scope of the ''active mining area'' at the site of their operations. In many cases, modifications to individual permits may be more appropriate for longer-term authorization of the storm discharges in question. Of course, as indicated in the Table, there may be other such point sources of drainage from within the active mining area that would not be ''mine drainage.'' Such discharges may be appropriately regulated under EPA general permits for storm water.

EPA also recommends that permit applicants contact the relevant NPDES authority for assistance in determining the appropriate permitting vehicle to address the class of discharges described in today's notice. At the time of reissuance, individual permits provide the best opportunity to evaluate all discharges at a mining operation, determine appropriate technology-based and water quality-based limitations, and tailor controls appropriate for the discharge, for example, through the use of best professional judgment (BPJ) according to 40 CFR § 125.3(d) or analogous State law, and where necessary to assure compliance with water quality standards.

NPDES permitting authorities should consider the following pollutants of concern when determining appropriate permit limitations:

—*pH, Acidity, and Alkalinity.* The term pH is a measure of relative acidity or alkalinity of water. Acidity is produced by substances that yield hydrogen ions upon hydrolysis and alkalinity is produced by substances that yield hydroxyl ions. The concentration of hydrogen ions is termed ''pH.'' At a pH of 7, the water is neutral; lower pH values indicate acidity and higher values indicate alkalinity. Mine waste water is generally acidic as a result of the oxidation of minerals. Extremes in pH or rapid pH changes can exert stress conditions on aquatic biota, even to the point of killing aquatic life. The relative toxicity to aquatic life of other pollutants often is related to pH. For example, metalocyanide complexes can increase a thousand-fold in toxicity with a decline of 1.5 pH units. pH also affects the availability of nutrients utilized by aquatic life.

—*Total Suspended Solids* (''TSS''). Suspended solids adversely affect fisheries by covering the bottoms of streams and lakes, destroying the bottom dwelling fish and spawning grounds. Solids in suspension increase water turbidity, reduce light penetration and impair photo synthetic activity. When solids settle to the bottom, they are often more damaging to aquatic life. TSS composed of organic matter may deplete available oxygen supplies necessary for maintaining aquatic ecosystems. High TSS concentrations are prevalent in discharges from mining operations as a result of the mining process itself.

—*Copper.* In relatively low doses, copper can cause systems of gastroenteritis in humans, with nausea and intestinal irritations. Copper concentrations of less than one milligram per liter can be toxic to many kinds of fish and aquatic biota.

—*Zinc.* Concentrations of zinc ranging from 0.01 to 0.1 milligrams per liter are lethal to fish. Zinc may be rendered more toxic in the presence of copper.

If the NPDES permitting authority has data, for example, which indicate that discharges outside the active mining area only present pollution concerns associated with solids (e.g., settleable solids or total suspended solids), the permit requirements for those discharges may be limited to controlling those solids. However, if discharges contain heavy metals, the permitting authority, using BPJ, may establish appropriate technology-based metals effluent limitations. Further, if the permitting authority has data to indicate a reasonable potential to cause or contribute to an excursion of water quality standards for other pollutants, including pH and/or heavy metals, then the permit must include those more stringent requirements to assure compliance with water quality standards. EPA recommends ongoing monitoring for both pH and metals because the complex geochemistry at many mine sites presents difficulty in predicting the quality of storm water into the future.

In making BPJ determinations to require, for example, diversion of contaminated storm water flows for treatment, permitting authorities need to consider: the age of the equipment and facilities involved; process employed; the engineering aspects of the application of various types of control techniques; process changes; the costs of achieving effluent reduction; and non-water quality environmental impacts (including energy requirements). Such considerations should be documented in permit fact sheets.

In cases where there is a dry weather discharge outside the scope of the Guidelines, EPA strongly recommends that the permitting authority issue an individual NPDES permit using BPJ to establish appropriate technology-based limits or more stringent limitations necessary to assure compliance with water quality standards. The permitting authority should consider the degree of pollutant discharges (especially, whether the discharge contains heavy metal pollutants) and must consider the impact on the receiving water when establishing appropriate water quality-based controls on the discharge.

Finally, the Agency cautions that today's interpretation should not be

read as a license for mine operators to convert point source discharges into ''nonpoint'' sources in order to avoid regulation under the NPDES permit program. If a mining operation has a discernable, confined, discrete conveyance, any attempt to avoid regulation by intentional ''diffusion'' of that waste water stream, for example by spraying it over a hill side or inserting diffusing devices at the ends of drainage culverts, would still constitute a point source discharge if the waste water ultimately enters waters of the United States (as opposed to appropriate land application of such waste waters). While such diffusion may beneficially reduce the potential for erosion and instream sedimentation, it would not eliminate the need for treatment where necessary, for example, where the discharge contains metals contributing to a violation of State water quality standards.

## VI. Monitoring Requirements for Waste Rock and/or Overburden Sources Eligible for Authorization Under Today's Modification

Subject to the eligibility limitations in the Multi-Sector Permit, storm water discharges from waste rock and overburden sources are eligible for general permit authorization according to the terms and conditions of the permit. For the most part, permittees will control such discharges in the same manner as other storm water discharges associated with the operation that were already eligible for permit coverage. In response to comments that extending Multi-Sector Permit coverage to this category of discharges is inappropriate, however, today's permit modifications impose requirements for analytic monitoring of storm water discharges from these waste rock and/or overburden sources.

By authorizing storm water discharges from waste rock and/or overburden sources, today's modifications to the Multi-Sector Permit will assure identification of and pollutant reduction at waste rock and/or overburden sources that might otherwise have remained unregulated until EPA (or State) regulatory personnel conduct individual, mine-by-mine, source-by-source evaluations. Under the monitoring requirements in today's modification, permittees (at all types of mines) will sample and measure at least once for a variety of mining-related pollutants. In addition, depending on the type of ore mined, permittees will also sample and measure twice annually for a list of pollutants specified for specific types of ore mining categories.

The Multi-Sector Permit, as modified, expires in September 2000. Thus, the authorization provided by today's permit modification will be of limited duration. Given the limitations in the data set from which EPA derived the requirements in the Multi-Sector Permit, the Agency believes that monitoring over time (until September 2000) is necessary, both to appropriately control storm water discharges from waste rock and overburden until September 2000, and to determine the appropriate control measures upon reissuance of the Multi-Sector Permit. As such, the monitoring is both ''regulatory,'' in that it will identify sources of particular concern, as well as ''evaluative,'' in that it will provide data to describe and evaluate storm water discharges from waste rock and overburden sources in a comprehensive fashion.

For storm water discharges from waste rock and overburden piles, permittees will sample and analyze at least once for the following metals: antimony, arsenic, beryllium, cadmium, copper, iron, lead, manganese, mercury, nickel, selenium, silver, zinc. Each of these metals can be measured using the same analytic test procedure. The original Multi-Sector Permit also included ''parameter benchmark values'' for each of these metals. See 60 FR at 50826 (Table 5). Consistent with the identification of pollutants in the benchmark values table, permittees will measure for total ''recoverable'' metals. Though the Agency has expressed a policy preference for measurement of total dissolved metals in describing ambient water quality, the monitoring for total metals to characterize effluent discharges under today's modification is consistent with NPDES regulations, which specify that, when a permit contains a *limitation* for a metal, the limit be expressed in terms of total recoverable metals. See 40 CFR 122.45(c). At the discretion of the permittee, however, the permittee may also report information about ''dissolved'' metal analysis for the measured samples because EPA will evaluate all available monitoring information to determine appropriate terms and conditions for the Multi-Sector Permit upon reissuance. Permittees will also sample and analyze for pH, hardness, total settleable solids (TSS) and turbidity in the storm water discharges from such piles.

For any pollutant occurring above a benchmark value, the permittee will sample and analyze twice annually. In the case of pH monitoring, two annual samples is required if the measured pH falls outside the range listed in Table 5. Hardness does not have a benchmark value; twice annual measurement of hardness would accompany measurement for any hardness dependent metals (cadmium, copper, lead, nickel, silver, and zinc) required to be measured twice annually based on this initial measurement.

The permit includes this monitoring ''screen'' based on the geologic variability of waste rock and overburden associated with various ore types. Though a particular site may be mined only for a particular ore type, other metals may exist in the overburden (though not high enough in content to be of economic value). This initial monitoring will identify any such metals of concern. Measurement of such metals above the identified ''benchmark'' necessitates continuing attention through twice annual monitoring. Measurement of pH will also identify mine piles of concern for acidity. Information about hardness is important in determining bioavailability of measured metals, which in turn is useful to predict water quality impact. Measurement of total settleable solids and turbidity provides an indication of the effectiveness of measures to control erosion and runoff of storm water, which may impair aquatic life and aquatic habitat at high levels.

As noted above, permittees are also automatically required to conduct twice annual monitoring for specified pollutants associated with the specific type of ore mined at the facility. For certain types of ore mines, the effluent limitations guidelines (the Part 440 regulations) identified specific ''pollutants of concern.'' Given the potential for changes in geochemistry of waste rock and overburden piles over time, this categorical monitoring (twice yearly) is required regardless of the test results from the initial monitoring screen. Note that two types of ore mining operations, iron mining and uranium/radium/vanadium mining, are required to measure for dissolved iron and dissolved radium, respectively.

The permit requires two monitoring events per year (once between January and June, and once between July and December) in order to assure that collected samples reliably ''represent'' expected discharges over the course of the year and to account for the significant potential difficulty (and potential for resulting error) in sampling. Given the opportunity for a sampling waiver under certain temporally-dependent conditions, the twice annual monitoring requirement will provide a meaningful representation of discharges, including seasonal variability.

The analytic monitoring requirements only apply to storm water discharges from piles of waste rock and overburden piles, not to haul roads and access roads constructed from waste rock or overburden. While the Agency is aware of the potential for water quality problems associated with acid rock drainage from piles of waste rock and/or overburden, the Agency is not aware of the same threat from drainage from access roads and haul roads. Given the relative flow per discharge source compared to piles, visual discharge monitoring and inspection should be adequate for haul roads and access roads.

Monitoring is required only at representative outfalls. Consistent with the existing Multi-Sector Permit, permittees are only required to sample and analyze discharges from the representative outfalls, which in turn, are to be identified in pollution prevention plans (i.e., in the topographic maps identifying drainage patterns). The pollution prevention plan also must explain why the discharges are expected to be substantially identical, estimate the drainage area and runoff coefficient. See generally, the explanation in the Multi-Sector Permit at 60 FR at 51160, col. 3 (''Representative Discharge'').

Similar to the reporting requirements in the Multi-Sector Permit, permittees need to submit monitoring results in Discharge Monitoring Reports on an annual basis. Because the Multi-Sector Permit will expire in September 2000, this requirement will result in essentially two reports for each mining operation. The first report will provide important information upon which the Agency can begin the process to reissue the Multi-Sector Permit; the second report will confirm (or refute) preliminary decisions with sufficient time for the Agency to evaluate the information prior to proposing reissuance.

The permit modification (and monitoring requirements) apply to both ''active'' piles, as well as ''inactive'' piles, though only at ''active'' mining and dressing operations. Permittees have discretion to sample discharges at any convenient point prior to discharge to waters of the United States, including a sampling point after application of the best management practice. Consistent with the analytic monitoring requirements for discharges from active copper mines (in the existing Multi-Sector Permit), permittees may collect substitute samples when adverse weather conditions create dangerous conditions for personnel or otherwise make the collection of a sample impracticable.

## VII. Summary of Responses to Public Comments

EPA has prepared a comprehensive response to public comments received on the proposal and that document is available in the administrative record for today's action. Some of those comments and responses are included below.

*Comment.* EPA's 1978 and 1982 Development Documents reveal that EPA has never analyzed the technical and economic feasibility of subjecting storm water runoff from vast overburden piles, haul roads and similar ancillary areas to the strict Part 440 effluent limitations. EPA wrongly still presumes that the ''active mining area'' should be interpreted broadly. The purported definition of the term ''mine'' [from the 1975 preamble and 1978 Development Document] is inconsistent with (and far broader than) the subsequently-promulgated regulatory definition of the term ''mine'' for the purposes of 40 CFR § 440.132. That definition does not include such things as ''haul roads'' or ''all lands affected by the construction of new roads or the improvements or use of existing roads to gain access to the site,'' nor does it include ''overburden piles'' or ''storage areas'' (except to the extent that such piles or areas are currently being used for the ''secondary recovery of metal ore''). Thus, the proposed modification is inconsistent on its face with the existing regulation and should be eliminated. All references to the scope of the term ''mine'' (or the ''active mining area'') should be limited to the regulatory definitions which speak for themselves.

*Response.* The commenter presents forceful arguments supporting revision of the interpretation of ''the'' definition as proposed, but some of its assumptions understate and confuse the nature of the Agency's actions in developing and promulgating the Part 440 regulations. By today's action, EPA explains its interpretation.

The definition of ''mine'' at 40 CFR 440.132(g) includes ''an active mining area, including all land and property placed under, or above the surface of such land, used in or resulting from the work of extracting metal ore or minerals from their natural deposits by any means or method, including secondary recovery of metal ore from refuse or other storage piles, wastes, or rock dumps and mill tailings derived from the mining, cleaning, or concentration of metal ores.'' An ''active mining area'' is ''a place where work or other activity related to the extraction of, removal, or recovery of metal ore is being conducted, except, with respect to surface mines, any area of land on or in which grading has been completed to return the earth to desired contour and reclamation work has begun.'' 40 CFR 440.132(a)(emphasis added). The plain meaning of the words ''other activity related to * * *'' could be interpreted to include overburden-related sources (in that disposal of mining waste is ''related to'' and, in fact integral to, mining) and haul roads (in that access to and from mining sites is ''related to'' and, in fact, integral to mining). Under today's interpretation, however, overburden-related sources would not be categorically subject to the Part 440 regulations unless otherwise sited in the active mining area. Likewise, waste rock and overburden-related sources are not categorically excluded from applicability of the Part 440 regulations because some such sources may be sited in the active mining area and combine with mine drainage otherwise regulated under the Part 440 regulations.

The definitions of the term ''mine'' from the 1975 preamble and 1978 Development Document differ from the definition of the term ''mine'' published at 40 CFR § 440.132. Descriptions in the 1975 preamble and 1978 Development Document were developed and used by Agency personnel gathering information at existing mining operations. EPA presumes that *some* of the sources identified in the 1975 preamble and 1978 Development Document did drain to existing treatment systems at some facilities. EPA acknowledges, however, that the location of such sources does not necessarily and categorically define the geographic scope of active mining area. EPA notes that the definition of ''mine'' in the 1982 Development Document more closely paraphrases the regulatory definitions.

To respond to this comment and avoid further confusion, however, EPA has removed references to the 1975 and 1978 developmental definitions in the interpretation published today. By today's action, a discharge associated with the disposal of waste rock or overburden source would not be subject to regulation under the Part 440 regulations unless it: (1) naturally drains (or is intentionally diverted) to a point source; and (2) combines with ''mine drainage'' that is otherwise regulated under the Part 440 regulations. As such, EPA has modified the provisions of the Multi-Sector permit to include monitoring provisions that should effectively identify any waste rock and overburden sources of environmental concern.

*Comment.* The newly proposed version of Table G–4 omits certain sources of storm water discharges that were listed in the prior version and as to which the multi-sector general permit should be applicable, specifically, crusher areas, ore piles, and spent ore piles. The commenter believes these areas are outside the active mining area.

*Response.* The published interpretation no longer attempts to enumerate various areas at mining operations for the purposes of indicating those for which the Part 440 regulations apply. By deciding not to list those areas, EPA specifically does not expand permit coverage to include those areas. In the group applications from the mining industry, group applicants did not specifically seek permit authorization for such areas. EPA therefore lacks sufficient information to address these areas today.

*Comment.* Mines are subject to state and federal regulations pertaining to dust. Nevada encourages the use of pumped groundwater for dust control in order to conserve water. To subject haul roads to numeric effluent limitations because they use pumped groundwater to limit dust in order to comply with other regulations seems counterproductive and shortsighted. Any statement that would subject these roads to such limitations should be deleted. In Nevada, groundwater is typically pumped from an underground aquifer to a holding tank for dust control usage. Groundwater used for dust control is not normally applied to roads during storm events, thus, there would be no commingling of storm water and ground water.

*Response.* EPA did not intend to identify all waters used for dust control as sources of mine drainage. EPA recognizes that groundwater is used for dust control in some areas of the country. EPA does not necessarily consider groundwater to be mine drainage, especially uncontaminated groundwater. When mine water, which might otherwise constitute mine drainage, is used for dust control, however, then such dust control waters would remain mine drainage.

*Comment.* The proposed modification should not be limited to EPA Regions 1, 6, 9, and 10. EPA Region 8 has relied on Table G–4 from the original Multi-Sector Permit to dictate to States with EPA-approved NPDES permit programs how 40 CFR Part 440 must be interpreted. EPA has provided the 1995 Multi-Sector Permit to authorized States as a model. Because authorized States must have requirements that are at least as stringent as the federal program, EPA should confirm that any revised interpretation of 40 CFR Part 440 is applicable to all States with ore mining and dressing facilities. EPA's interpretation in Table G–4 is applicable to all States, not just EPA, including for the purposes of withdrawal of authorized State NPDES programs. EPA has not provided a reasoned and viable basis for regional distinctions in applicability of the interpretation in the proposed modification.

*Response.* EPA agrees that the Agency's interpretation of the Part 440 regulations should apply on a national basis. States authorized to administer the NPDES permitting program are to include effluent limitations in permits that are at least as stringent as the limitations that EPA would include in NPDES permits. Because the interpretation in today's action is just that—an interpretation—and because the primary action EPA takes in today's action is to modify EPA-issued NPDES general permits for storm water associated with industrial activity (the Multi-Sector Permit), only the EPA Regional Administrators who issue the Multi-Sector Permit sign today's notice. EPA does intend, however, that the interpretation associated with the modification to the Multi-Sector Permit apply on a nationwide basis.

*Comment.* EPA should address the situation where an overburden pile is physically separated from and does not naturally drain to an open pit.

*Response.* EPA generally acknowledges that some mining operations and some States authorized to administer the NPDES program have not historically interpreted the term ''active mining area'' in the same manner as the Agency would have interpreted that term reflected in the 1995 version of Table G–4. Upon fuller review of the underlying administrative record to the original Part 440 rule makings, EPA concludes that the Agency did not conduct a complete economic and technological assessment of diversion of drainage flows from ''waste rock or overburden'' outside the active mining area into the active mining area. As such, the Agency agrees that a waste rock or an overburden pile that is physically separated from and does not naturally drain (or has not been intentionally diverted) to treatment would not be a source of mine drainage. In such a case, however, evaluation of the resulting discharges would be necessary and appropriate to determine whether such discharge would cause, have a reasonable potential to cause, or contribute to a violation of any water quality standard.

*Comment.* EPA should clarify that water quality treatment of ''mine drainage'' necessitated by active mining (e.g., construction of a waste rock pile) is part of the ''active mining area'' and the ''mine'' and that such drainage is subject to the effluent limitations guidelines for the life of the discharge.

*Response.* EPA generally agrees that mining operation point sources from active mining that represent water quality concerns remain subject to CWA control requirements for as long as the discharge causes or contributes (or has a reasonable potential to contribute) to a violation of a water quality standard. EPA presumes that treatment to protect water quality may be necessary, for example, for discharges from a waste rock pile with mineral content high enough to leach metals under normal environmental conditions. EPA does not, however, conclude that all regulation of point sources to protect water quality necessarily means that such point sources are subject to regulation under the national effluent limitations guidelines. Any more stringent water quality based effluent limitations are necessary when technology-based limitations are insufficient to assure compliance with water quality standards. The imposition of a water quality based effluent limitation does not necessarily expand the applicability of technology-based limitations. Such water quality-based limitations may regulate different or fewer (or more) pollutants than applicable technology-based limitations.

*Comment.* EPA should interpret the Neuman letter to exempt only releases from ''areas * * * where work or other activity related to the extraction, removal or recovery of metal ore *is not being conducted.*'' EPA should clarify that an active waste dump is clearly within an area where such work is being conducted. The proposed modification correctly notes the distinction between discharges from active waste rock dumps and inactive dumps. The former are subject to the effluent limitations guidelines and the latter are not.

*Response.* EPA believes that, as a practical matter, it would be difficult to differentiate discharges from newly placed overburden and existing overburden, especially when placement of overburden is being conducted at existing piles. Importantly, the mere placement of such ''new'' overburden to an existing overburden pile does not automatically make the pile part of the active mining area under the Part 440 regulations.

*Comment.* The Administrator's decision of February 21, 1979, did not exempt *active* waste rock dumps that *do* drain to a point source.

*Response.* As noted previously, EPA has struggled to provide meaning to the Administrator's February 21, 1979 decision in light of the appended letter from Mr. Neuman. EPA agrees that the Administrator's decision, to the extent it addresses drainage to a point source, clearly does not provide any basis to presume any exemption from NPDES permit requirements. The Agency does not, however, endorse the negative inference that the commenter draws from the Administrator's decision. Under today's clarification, a discharge associated with the disposal of waste rock and/or overburden would not be subject to regulation under the Part 440 regulations unless it: (1) drains naturally (or is intentionally diverted) to a point source; and (2) combines with ''mine drainage'' that is otherwise regulated under the Part 440 regulations.

## VIII. Regulation Assessment Requirements

### *A. Executive Order 12866*

Under Executive Order 12866 (58 FR 51735; October 4, 1993), the Agency must determine whether the regulatory action is ''significant'' and therefore subject to OMB review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Because the Agency takes the position that NPDES general permits are not ''rules'' or ''regulations'' subject to the rule making requirements of Administrative Procedure Act section 553, it has been determined that this rule is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to OMB review.

### *B. Regulatory Flexibility Act*

The Agency has determined that the permit modification being published today is not subject to the Regulatory Flexibility Act (''RFA''), which generally requires an agency to conduct a regulatory flexibility analysis of any significant impact the rule will have on a substantial number of small entities. By its terms, the RFA only applies to rules subject to notice-and-comment rule making requirements under the Administrative Procedure Act (''APA'') or any other statute. Today's permit modification is not subject to notice and comment requirements under the APA or any other statute because the APA defines ''rules'' in a manner that excludes permits. See APA section 551 (4), (6), and (8).

APA section 553 does not require public notice and opportunity for comment for interpretative rules or general statements of policy. In addition to modifying the general permit, today's action repeats an interpretation of existing regulations promulgated almost twenty years ago. The action would impose no new or additional requirements.

### *C. Unfunded Mandates Reform Act*

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), P.L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year.

For reasons explained in the discussion regarding the Regulatory Flexibility Act, the UMRA only applies to rules subject to notice-and-comment rule making requirements under the APA or any other statute. Today's permit modification is not subject to notice and comment requirements under the APA or any other statute because the APA defines ''rules'' in a manner that excludes permits. See APA section 551 (4), (6), and (8).

Today's permit modification contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, or tribal governments or the private sector. Today's modification merely announces an Agency interpretation of existing regulations. EPA has determined that this permit modification does not contain any Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. Therefore, today's permit modification is not subject to the requirements of section 202 of the UMRA.

Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements. Because today's modification is based on an interpretation of existing regulations and because EPA anticipates that extremely few, if any, small governments operate mining operations, EPA has determined that this action contains no regulatory requirements that might significantly or uniquely affect small governments.

### *D. Paperwork Reduction Act*

The permit modification contains no requests for information and consequently is not subject to the Paperwork Reduction Act, 44 U.S.C. §§ 3501 *et seq.*

## Official Signatures

Accordingly, I hereby find consistent with the provisions of the Regulatory Flexibility Act, that these final permit modifications will not have a significant impact on a substantial number of small entities.

**Authority:** Clean Water Act, 33 U.S.C. 1251 *et seq.*

Dated: July 29, 1998.

**Mindy Lubber,**

*Acting Regional Administrator, Region 1.*

Dated: July 29, 1998.

**Gregg A. Cooke,**

*Regional Administrator, Region 6.*

Dated: July 18, 1998.

**Laura Yoshii,**

*Acting Regional Administrator, Region 9.*

Dated: July 21, 1998.

**Chuck Clarke,**

*Regional Administrator, Region 10.*

## Final Permit Modification

This permit modification shall become effective on September 8, 1998.

Region 1

Signed and issued this 24th day of July, 1998.

**Linda M. Murphy,**

*Director, Office of Ecosystem Protection.*

| Areas of coverage | Permit No. |
|---|---|
| Connecticut Indian Country .. | CTR05*##F |
| Maine ..... | MER05*### |
| Maine Indian Country ..... | MER05*##F |
| Massachusetts ..... | MAR05*### |
| Massachusetts Indian Country. | MAR05*##F |
| New Hampshire ..... | NHR05*### |
| Rhode Island Indian Country | RIR05*##F |
| Vermont Federal Facilities ... | VTR05*##F |

## Region VI

Signed this 29th of July, 1998.

William B. Hathaway,

*Water Quality Protection Division Director.*

| Areas of coverage | Permit No. |
|---|---|
| Louisiana Indian country ..... | LAR05*##F |
| New Mexico ..... | NMR05*### |
| Indian country (except Navajo and Ute Mountain Reservation lands). | NMR05*##F |
| Oklahoma: | |
| Indian country ..... | OKR05*##F |
| Oil and gas exploration and production related industries and pipeline industries that are regulated by the Oklahoma Corporation Commission. | OKR05*###F |
| Texas ..... | TXR05*### |
| . | |
| Indian country ..... | TXR05*##F |

## Region IX

Signed this 24th of July, 1998.

Alexis Strauss,

*Acting Director, Water Division.*

| Areas of coverage | Permit No. |
|---|---|
| Arizona ..... | AZR05*### |
| Indian country ..... | AZR05*##F |
| Federal Facilities ..... | AZR05*##F |
| California: | |
| Indian country (Not including Hoopa Valley Tribe). | CAR05*##F |
| Idaho: | |
| Duck Valley Reservation .. | NVR05*##F |
| Nevada Indian country ..... | NVR05*##F |
| New Mexico: | |
| Navajo Reservation ..... | AZR05*##F |
| Oregon: | |
| Fort McDermitt Reservation. | NVR05*##F |
| Utah | |
| Goshute Reservation ..... | NVR05*##F |
| Navajo Reservation ..... | AZR05*##F |

## Region X

Signed this 21st of July, 1998.

Philip G. Millam,

*Director, Office of Water.*

| Areas of coverage | Permit No. |
|---|---|
| Alaska Indian country ..... | AKR05*##F |
| Idaho: | IDR05*### |
| Federal Facilities ..... | IDR05*##F |
| Indian country (except Duck Valley Reservation lands). | IDR05*##F |
| Oregon Indian country (except for Fort McDermitt Reservation lands). | ORR05*##F |
| Washington Indian country ... | WAR05*##F |
| Washington Federal Facilities. | WAR05*##F |

1. For the reasons set forth in this preamble, the table published at 60 FR 50897 is modified to read as follows:

TABLE G–4.—APPLICABILITY OF THE MULTI-SECTOR GENERAL PERMIT TO STORM WATER RUNOFF FROM ACTIVE ORE (METAL) MINING AND DRESSING SITES

| Discharge/source of discharge | Note/comment |
|---|---|
| Piles: | |
| Waste rock/overburden ..... | If composed entirely of storm water and not combining with mine drainage. See Note below. |
| Topsoil. | |
| Roads constructed of waste rock or spent ore: | |
| Onsite haul roads ..... | If composed entirely of storm water and not combining with mine drainage. See Note below. |
| Offsite haul/access roads. | |
| Roads not constructed of waste rock or spent ore: | |
| Onsite haul roads ..... | Except if ''mine drainage'' is used for dust control. |
| Offsite haul/access roads. | |
| Milling/concentrating: | |
| Runoff from tailings dams/dikes when constructed of waste rock/tailings. | Except if process fluids are present and only if composed entirely of storm water and not combining with mine drainage. See Note below. |
| Runoff from tailings dams/dikes when not constructed of waste rock/tailings. | Except if process fluids are present. |
| Concentration building ..... | If storm water only and no contact with piles. |
| Mill site ..... | If storm water only and no contact with piles. |
| Ancillary areas: | |
| Office/administrative building and housing ..... | If mixed with storm water from the industrial area. |
| Chemical storage area. | |
| Docking facility ..... | Except if excessive contact with waste product that would otherwise constitute ''mine drainage''. |
| Explosive storage | |
| Fuel storage (oil tanks/coal piles) | |
| Vehicle/equipment maintenance area/building | |
| Parking areas ..... | But coverage unnecessary if only employee and visitor-type parking. |
| Power plant. | |
| Truck wash area ..... | Except when excessive contact with waste product that would otherwise constitute ''mine drainage''. |
| Reclamation-related areas: | |
| Any disturbed area (unreclaimed) ..... | Only if not in active mining area. |

TABLE G–4.—APPLICABILITY OF THE MULTI-SECTOR GENERAL PERMIT TO STORM WATER RUNOFF FROM ACTIVE ORE (METAL) MINING AND DRESSING SITES—Continued

| Discharge/source of discharge | Note/comment |
|---|---|
| Reclaimed areas released from reclamation bonds prior to Dec. 17 1990. | |
| Partially/inadequately reclaimed areas or areas not released from reclamation bond. | |

Storm water runoff from these sources are subject to the NPDES program for storm water unless mixed with discharges subject to the 40 CFR Part 440 that are not regulated by another permit prior to mixing. Non-storm water discharges from these sources are subject to NPDES permitting and may be subject to the effluent limitation guidelines under 40 CFR Part 440.

**Note:** Discharges from overburden/waste rock and overburden/waste rock-related areas are not subject to 40 CFR Part 440 unless: (1) it drains naturally (or is intentionally diverted) to a point source; and (2) combines with ''mine drainage'' that is otherwise regulated under the Part 440 regulations. For such sources, coverage under this permit would be available if the discharge is composed entirely of storm water does not combine with other sources of mine drainage that are not subject to 40 CFR Part 440, as well as meeting other eligibility criteria contained in Part I.B. of the permit. Permit applicants bear the initial responsibility for determining the applicable technology-based standard for such discharges. EPA recommends that permit applicants contact the relevant NPDES permit issuance authority for assistance to determine the nature and scope of the ''active mining area'' on a mine-by-mine basis, as well as to determine the appropriate permitting mechanism for authorizing such discharges.

2. The fourth sentence in the first paragraph in permit eligibility provision for Storm Water Discharges Associated with Industrial Activity from Metal Mining (Ore Mining and Dressing), Section XI.G.1. (introductory language), previously published at 60 FR 51155, is modified and a fifth and sixth sentence are added to read as follows:

1. Discharges Covered Under This Section

* * * All storm water discharges from inactive metal mining facilities and storm water discharges from the following areas of active, and temporarily inactive, metal mining facilities are the only discharges covered by this permit: waste rock/overburden piles if composed entirely of storm water and not combining with mine drainage; topsoil piles; offsite haul/access roads; onsite haul/access roads constructed of waste rock/overburden if composed entirely of storm water and not combining with mine drainage; onsite haul/access roads not constructed of waste rock/overburden/spent ore except if mine drainage is used for dust control; runoff from tailings dams/dikes when not constructed of waste rock/tailings and no process fluids are present; runoff from tailings dams/dikes when constructed of waste rock/tailings and no process fluids are present if composed entirely of storm water and not combining with mine drainage; concentration building if no contact with material piles; mill site if no contact with material piles; office/administrative building and housing if mixed with storm water from industrial area; chemical storage area; docking facility except if excessive contact with waste product that would otherwise constitute mine drainage; explosive storage; fuel storage; vehicle/equipment maintenance area/building; parking areas (if necessary); power plant; truck wash areas except when excessive contact with waste product that would otherwise constitute mine drainage; unreclaimed, disturbed areas outside of active mining area; reclaimed areas released from reclamation bonds prior to December 17, 1990; and partially/inadequately reclaimed areas or areas not released from reclamation bond. Note: Discharges from overburden/waste rock and overburden/waste rock-related areas are not subject to 40 CFR Part 440 unless it: (1) Drains naturally (or is intentionally diverted) to a point source; and (2) combines with ''mine drainage'' that is otherwise regulated under the Part 440 regulations. For such sources, coverage under this permit is available if the discharge is composed entirely of storm water and does not combine with sources of mine drainage that are subject to 40 CFR Part 440, as well as meeting other eligibility criteria contained in Part I.B. of the permit.

3. The permit is amended to include a new section d. and Tables G–2 and G–3, which would have appeared in the third column of 60 FR 51161, to read as follows:

d. Additional Monitoring Requirements for Storm Water Discharges from Waste Rock and Overburden Piles.

Beginning July 1, 1998, the operator of an active ore mining and dressing facility covered by this permit must monitor the storm water discharges from waste rock and/or overburden piles resulting from mining activities. The operator must conduct analytic monitoring as described below at least twice annually (once between July 1 and December 31, and once between January 1 and June 30) for the duration of this permit. Samples shall be collected from separate storm events a minimum of 3 months apart, except as provided in paragraphs 5.a.(3) (Sampling Waiver), 5.a.(4) (Representative Discharge), and 5.a.(5) (Alternative Certification). Upon notification by the Director, permittees may be required to conduct additional monitoring as necessary to accurately characterize the quality and quantity of pollutants discharged from the waste rock/overburden pile.

All permittees must conduct analytic monitoring once for the parameters listed in Table G–2, and twice annually for any parameters measured above the benchmark value listed in Table G–2. Permittees must also conduct analytic monitoring twice annually for the parameters listed Table G–3 for each of the ore mine categories listed in Table G–3. The initial sampling conducted of Table G–2 pollutant parameters satisfies the requirement for the first sample for any pollutant measurement required by Table G–3.

Permittees must report monitoring results in accordance with paragraph 5.b. (Reporting). In addition to reporting the monitoring requirements for the parameters listed in Tables G–2 and G–3 below, the permittee must report the date and duration (in hours) of the storm event(s) sampled; rainfall measurements or estimates (in inches) of the storm event that generated the sampled runoff; the duration between the storm event sampled and the end of the previously measurable (greater than 0.1 inch) storm event; and an estimate of the total volume (in gallons) of the sampled discharge.

TABLE G–2.—INITIAL MONITORING REQUIREMENTS FOR STORM WATER DISCHARGES FROM WASTE ROCK AND OVERBURDEN PILES RESULTING FROM MINING ACTIVITY AT ACTIVE ORE MINING OR DRESSING OPERATIONS

| Pollutants of concern | Benchmark values |
|---|---|
| Total Suspended Solids (TSS) | 100 mg/L. |
| Turbidity (NTUs) | 5 NTUs above background. |
| pH | 6.0–9.0 standard units. |
| Hardness (as $CaCO_3$) | no benchmark value. |
| Antimony, Total | 0.636 mg/L. |
| Arsenic, Total | 0.16854 mg/L. |
| Beryllium, Total | 0.13 mg/L. |
| Cadmium, Total (hardness dependent) | 0.0159 mg/L. |
| Copper, Total (hardness dependent) | 0.0636 mg/L. |
| Iron, Total | 1.0 mg/L. |
| Lead, Total (hardness dependent) | 0.0816 mg/L. |
| Manganese, Total | 1.0 mg/L. |
| Mercury, Total | 0.0024 mg/L. |
| Nickel, Total (hardness dependent) | 1.417 mg/L. |
| Selenium, Total | 0.2385 mg/L. |
| Silver, Total (hardness dependent) | 0.0318 mg/L. |
| Zinc, Total (hardness dependent) | 0.117 mg/L. |

TABLE G–3.—ADDITIONAL MONITORING REQUIREMENTS (TWICE ANNUAL) FOR STORM WATER DISCHARGES FROM WASTE ROCK AND OVERBURDEN RESULTING FROM MINING ACTIVITY AT ACTIVE MINING OR DRESSING OPERATIONS BASED ON TYPE OF ORE HANDLED

| Type of ore mined | Pollutant/parameter | | |
|---|---|---|---|
| | Total suspended solids (TSS) | pH | Metals, total |
| Tungsten Ore | X | X | Arsenic, Cadmium (H), Copper (H), Lead (H), Zinc (H). |
| Nickel Ore | X | X | Arsenic, Cadmium (H), Copper (H), Lead (H), Zinc (H). |
| Aluminum Ore | X | X | Aluminum, Iron. |
| Mercury Ore | X | X | Nickel (H), Mercury. |
| Iron Ore | X | X | Iron (Dissolved). |
| Platinum Ore | ..... | ..... | Cadmium (H), Copper (H), Mercury, Lead (H), Zinc (H). |
| Titanium Ore | X | X | Iron, Nickel (H), Zinc (H). |
| Vanadium Ore | X | X | Arsenic, Cadmium (H), Copper (H), Lead, Zinc (H). |
| Copper, Lead, Zinc, Gold, Silver, and Molybdenum | X | X | Arsenic, Cadmium (H), Copper (H), Lead (H), Mercury, Zinc (H). |
| Uranium, Radium, and Vanadium | X | X | Chemical Oxygen Demand, Arsenic, Radium (Dissolved and Total), Uranium, Zinc (H). |

NOTE: (H) indicates that hardness must also be measured when this pollutant is measured.

4. The permit is amended to include a new section e., which would have appeared in the third column of 60 FR 51161, to read as follows:

e. Additional Reporting Requirements for Storm Water Discharges from Waste Rock and Overburden Resulting from Mining Activities.

Permittees with active ore mining and dressing facilities shall submit monitoring results for each outfall discharging storm water discharges from waste rock and overburden piles resulting from mining activities, (or a certification in accordance with Sections (3)(a), (3)(b), (4), (5) above) obtained during the reporting period beginning July 1, 1998, and lasting for the duration of the permit. Permittees must submit such monitoring results on Discharge Monitoring Report (DMR) Form(s) postmarked no later than March 31 following the calendar year in which the samples were collected.

5. In addition to the conditions contained in Parts I–XI of this permit, the following requirements are incorporated into Part XII and are placed on permittees located in the listed States, Indian country lands (referred to as ''Federal Indian Reservations'' in the original permit), or Territories to meet applicable Clean Water Act section 401 or Coastal Zone Management Act certification requirements.

**Part XII. Coverage Under This Permit**

The provisions of this Part provide modifications or additions to the applicable conditions of Parts I through XI of this permit in order to reflect specific conditions required as part of a State, Tribal or Territory Clean Water Act section 401 certification process, or Coastal Zone Management Act certification process, or as otherwise established by the permitting authority. The additional revisions and requirements listed below are set forth in connection with, and only apply to, the following States, Indian country lands, and Federal facilities.

*Region I*

State of Massachusetts, Except Indian Country Lands (MAR05*###)

The following Massachusetts section 401 certification requirements revise the permit accordingly:

1. Part II.B.8. is added to the permit as follows:

*Special Permit Eligibility Requirements for the State of Massachusetts.* Discharges covered by the Multi-Sector General Permit must comply with the provisions of 314 CMR 3.00, 314 CMR 4.00, 314 CMR 9.00 and 310 CMR 10.00 and any related policies promulgated under the authority of the Massachusetts Clean Waters Act, M.G.L. c.21, ss.26–53, and Wetlands Protection Act, M.G.L. c.131, s. 40. Specifically, new facilities or the redevelopment of existing facilities subject to this permit must comply with applicable storm water performance standards prescribed by State regulation or policy. A permit under 314 CMR 3.04 is not required for existing facilities which meet State storm water performance standards; an application for a permit under 314 CMR 3.00 is required only when required under 314 CMR 3.04(2)(b) (designation of a discharge on a case-by-case basis) or is otherwise identified in 314 CMR 3.00 or Department policy as a discharge requiring a permit application. Department regulations and policies may be obtained through the State House Bookstore (617–727–2834) or on the Internet at ''www.magnet.state.ma.us/dep''.

2. Part VI.B.3. is added to the permit as follows:

*Special Reporting Requirement for the State of Massachusetts.* The results of any quarterly monitoring required by this permit must be sent to the appropriate regional office of the Department listed below when the monitoring identifies violations of State Surface Water Quality Standards, 314 CMR 4.00, for any parameter which requires monitoring under this permit. Monitoring results must also be submitted upon request to the Department.

*Western Region*

436 Dwight Street—Suite 402, Springfield, MA 01103, (413) 784–1100

*Central Region*

627 Main Street, Worcester, MA 01608, (508) 792–7650

*Southeast Region*

Lakeville Hospital—Route 105, Lakeville, MA 02347, (508) 946–2700

*Northeast Region*

10 Commerce Way, Woburn, MA 01801, (781) 932–7677

3. Part IV.B.2.a. is added to the permit as follows:

*Special Storm Water Pollution Prevention Plan Availability Requirement for the State of Massachusetts.* The Department may request a copy of the storm water pollution prevention plan for any facility covered by this permit to ensure compliance with State law requirements, including State water quality standards. The Department may enforce its certification conditions.

4. Part VII.Q.1. is added to the permit as follows:

*Special Inspection Requirements for the State of Massachusetts.* The Department may conduct an inspection of any facility covered by this permit to ensure compliance with State law requirements, including State water quality standards. The Department may enforce its certification conditions.

*Region VI*

State of New Mexico, except Indian Country Lands (NMR05*###)

The following State of New Mexico section 401 certification requirement revises the permit accordingly:

(a) Part I.B.8(a) is added to the permit as follows:

*Special Water Quality Standard Requirement for the State of New Mexico.* Storm water discharges associated with industrial activity that the New Mexico Environment Department (NMED)/Surface Water Quality Bureau has determined to be, or may reasonably be expected to be, contributing to a violation of a water quality standard are not authorized by this permit. Upon receipt of this determination, the NMED anticipates that the EPA will notify the general permittee within a reasonable period of time to apply for and obtain an individual NPDES permit for these discharges according to 40 CFR 122.28(b)(3).

Federal Indian Country Lands in the State of New Mexico (NMR05*##F)

1. *Pueblo of Isleta* The following Pueblo of Isleta section 401 certification requirements revise the permit accordingly:

(a) Part II.C.1. is added to the permit as follows:

*Special NOI Requirement for the Pueblo of Isleta.* Copies of NOIs shall also be submitted to the Pueblo of Isleta's Environment Department, Water Quality Program, at the following address concurrently with NOI submission to EPA: Isleta Environment Department, Water Quality Program, Pueblo of Isleta, PO Box 1270, Isleta, New Mexico 87022, Telephone (505) 869–6333 or 3111.

(b) Part IX.B.1. is added to the permit as follows:

*Special NOT Requirement for the Pueblo of Isleta.* Copies NOTs shall also be submitted to the Pueblo of Isleta's Environment Department, Water Quality Program, concurrently with NOT submission to EPA. Copies are to be sent to the address given in Part II.C.1.

(c) Part IV.F. is added to the permit as follows:

*Special Storm Water Pollution Prevention Plan Requirement for the Pueblo of Isleta.* Storm water pollution prevention plans must be submitted to the Pueblo of Isleta Environment Department, Water Quality Program, within 30 days of plan development. SWPPPs are to be sent to the address given in Part II.C.1.

2. *Pueblo of Pojoaque* The following Pueblo of Pojoaque section 401 certification requirements revise the permit accordingly:

(a) Part II.C.1. is added to the permit as follows:

*Special NOI Requirement for the Pueblo of Pojoaque.* Copies of NOIs shall also be submitted to the Pueblo of Pojoaque Environment Department at the following address concurrently with NOI submittal to EPA: Pueblo of Pojoaque, Environment Department, Route 11, P.O. Box 208, Santa Fe, New Mexico 87501, Telephone (505) 455–2087, Fax (505) 455–2177.

(b) Part IX.B.1. is added to the permit as follows:

*Special NOT Requirement for the Pueblo of Pojoaque.* Copies of NOTs shall also be submitted to the Pueblo of Pojoaque Environment Department concurrently with NOT submittal to EPA. Copies are to be sent to the address given in Part II.C.1.

(c) Part IV.F. is added to the permit as follows:

*Special Storm Water Pollution Prevention Plan Requirement for the Pueblo of Pojoaque.* Storm water pollution prevention plans must be submitted to the Pueblo of Pojoaque Environment Department at least 30 days before a project begins. Case-by-case determinations will be made by the Department to assure compliance with the Pueblo of Pojaque Water Quality Standards. SWPPPs are to be sent to the address given in Part II.C.1.

3. *Pueblo of Sandia* The following Pueblo of Sandia section 401 certification requirements revise the permit accordingly:

(a) Part II.C.1. is added to the permit as follows:

*Special NOI Requirement for the Pueblo of Sandia.* Copies of NOIs shall also be submitted to the Pueblo of Sandia Environment Department at the following address concurrently with NOI submittal to EPA: Pueblo of Sandia, Environment Department, Box 6008, Bernalillo, New Mexico 87004, Telephone (505) 867–4533; Fax (505) 867–9235.

(b) Part IX.B.1. is added to the permit as follows:

*Special NOT Requirement for the Pueblo of Sandia.* Copies of NOTs shall also be submitted to the Pueblo of Sandia Environment Department concurrently with NOT submittal to EPA. Copies are to be sent to the address given in Part II.C.1.

4. *Pueblo of Picuris* The following Pueblo of Picuris section 401 certification requirements revise the permit accordingly:

(a) Part II.C.1. is added to the permit as follows:

*Special NOI Requirement for the Pueblo of Picuris.* Copies NOIs shall also be submitted to both the Pueblo of Picuris Environment Department and Picuris Governor Manuel Archuleta at the following address concurrently with NOI submission to EPA: Pueblo of Picuris, P.O. Box 127, Penasco, New Mexico 87553, Telephone (505) 587–2519.

(b) Part IX.B.1. is added to the permit as follows:

*Special NOT Requirement for the Pueblo of Picuris.* Copies NOTs shall also be submitted to both the Pueblo of Picuris Environment Department and Picuris Governor Manuel Archuleta at the address given in Part II.C.1. concurrently with NOT submission to EPA.

(c) Part IV.F. is added to the permit as follows:

*Special Storm Water Pollution Prevention Plan Requirement for the Pueblo of Picuris.* Copies of storm water pollution prevention plans must be submitted to both the Pueblo of Picuris Environment Department and Picuris Governor Manuel Archuleta at the address given in Part II.C.1. concurrently with plan submission to EPA.

*Region X*

The State of Idaho, except Indian Country Lands (IDR05* ###)

The following State of Idaho section 401 certification requirement revises the permit accordingly:

1. Part IV.F. is added to the permit as follows:

*Special Storm Water Pollution Prevention Plan Requirement for the State of Idaho.* Storm water pollution prevention plan design and associated storm water discharge quality shall demonstrate compliance with applicable Idaho Water Quality Standards and Wastewater Treatment Requirements (IDAPA 16.01.02) through the selection and use of approved and/or reasonable Best Management Practices.

Federal Indian Country Lands in the State of Washington (WAR05* ##F)

1. *Confederated Tribes of the Chehalis Reservation.* The following Confederated Tribes of the Chehalis Reservation section 401 certification requirements revise the permit accordingly:

(a) Part I.B.8(a) is added to the permit as follows:

*Special Water Quality Standard Requirement for the Confederated Tribes of the Chehalis Reservation.* The permittee shall be responsible for achieving compliance with Confederated Tribes of Chehalis Reservation's Water Quality Standards.

(b) Part I.B.8(b) is added to the permit as follows:

*Special Permit Eligibility Requirement for the Confederated Tribes of the Chehalis Reservation.* Storm water pollution prevention plans shall be submitted to the Chehalis Tribal Department of Natural Resources at the following address for review and approval prior to discharge: Confederated Tribes of Chehalis Reservation, Department of Natural Resources 420 Howanut Road, Oakville, WA 98568.

2. *Puyallup Tribe of Indians.* The following Puyallup Tribe of Indians section 401 certification requirements revise the permit accordingly:

(a) Part I.B.8(a) is added to the permit as follows:

*Special Water Quality Standard Requirement for the Puyallup Tribe of Indians.* The permittee shall be responsible for achieving compliance with Puyallup Tribe's Water Quality Standards.

(b) Part I.B.8(b) is added to the permit as follows:

*Special Permit Eligibility Requirement for the Puyallup Tribe of Indians.* Storm water pollution prevention plans shall be submitted to the Puyallup Tribe Environmental Department at the following address for review and approval prior to discharge: Puyallup Tribe Environmental Department 2002 East 28th Street, Tacoma, WA 98404.

(c) Part II.C.1. is added to the permit as follows:

*Special NOI Requirement for the Puyallup Tribe of Indians.* Copies of NOIs shall also be submitted to the Puyallup Tribe Environmental Department at the address listed in Part I.B.8(b) at time of NOI submittal to EPA:

Federal Facilities in the State of Washington, Except Those Located on Indian Country Lands (WAR05* ###)

The following State of Washington section 401 certification requirement revises the permit accordingly:

(a) Part I.B.8(a) is added to the permit as follows:

*Special Water Quality Standard Requirement for the State of Washington.* The permittee shall be responsible for achieving compliance with the State of Washington's Water Quality Standards. These Standards are found in Chapter 173–201AWAC (Water Quality Standards for Surface Waters), Chapter 173–204 WAC (Sediment Management Standards), and the human health standards in the National Toxics Rule (57 FR 60848—60923).

[FR Doc. 98–21025 Filed 8–4–98; 8:45 am]

BILLING CODE 6560–50–P

federal register

Friday
August 7, 1998

## Part IV

# Department of Housing and Urban Development

**HUD Colonias Initiative (HCI) Fiscal Year 1998 Funding Availability: Application Deadline Amendments and Extension; Notice**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–4380–C–02]**

## Notice of Funding Availability for the HUD Colonias Initiative (HCI), Fiscal Year 1998; Amendments and Extension of Application Deadline

**AGENCY:** Office of the Assistant Secretary for Community Planning and Development; HUD.

**ACTION:** Notice of funding availability; Amendments and extension of application deadline.

**SUMMARY:** The purpose of this notice is to make several revisions to the July 15, 1998 Notice of Funding Availability (NOFA) for the HUD Colonias Initiative (HCI). Specifically, the July 15, 1998 NOFA provided a definition of the term ''rural county.'' This notice revises the July 15, 1998 NOFA to use the broader and appropriate terms ''rural'' and ''rural area,'' which encompass ''rural county.'' The notice also amends the July 15, 1998 NOFA to provide for the award of two bonus points during the application review process for eligible activities/projects that are proposed to be located in a Federally designated Empowerment Zone or Enterprise Community. HUD is also extending the HCI NOFA application due date, in order to ensure that applicants have sufficient time to prepare their applications in light of the revisions to the July 15, 1998 NOFA made by this notice.

**APPLICATION DUE DATE:** Completed applications (one original and two copies) must be submitted no later than 12:00 midnight, Eastern time, on September 8, 1998 to the address shown below. (Please note that the room number for application submissions has been revised from the room number identified in the July 15, 1998 NOFA.) The above-stated application deadline is firm as to date and hour. In the interest of fairness to all applicants, HUD will treat as ineligible for consideration any application that is not received before the application deadline. Applicants should submit their materials as early as possible to avoid any risk of loss of eligibility because of unanticipated delays or other delivery-related problems. HUD will not accept, at any time during the NOFA competition, application materials sent by facsimile (FAX) transmission.

**ADDRESSES AND APPLICATION SUBMISSION PROCEDURES:** *Addresses:* Completed applications (one original and two copies) must be submitted to: Department of Housing and Urban Development, 451 Seventh Street, SW, Room 7251, Washington, DC 20410; ATTN: HUD Colonias Initiative. *(Please note that the room number for application submissions has been revised from the room number identified in the July 15, 1998 NOFA.)*

*Applications Procedures. Mailed Applications.* Applications will be considered timely filed if postmarked on or before 12:00 midnight on the application due date and received at the address above on or within five (5) days of the application due date.

*Applications Sent by Overnight/ Express Mail Delivery.* Applications sent by overnight delivery or express mail will be considered timely filed if received before or on the application due date, or upon submission of documentary evidence that they were placed in transit with the overnight delivery service by no later than the specified application due date.

*Hand Carried Applications.* Hand carried applications delivered before and on the application due date must be brought to the specified location and room number between the hours of *8:45 a.m. to 5:15 p.m., Eastern time.* Applications hand carried on *the application due date* will be accepted in the South Lobby of the HUD Headquarters Building at the above address from *5:15 p.m. until 12:00 midnight, Eastern time.*

**FOR FURTHER INFORMATION CONTACT:** Yvette Aidara, Office of Block Grant Assistance, Department of Housing and Urban Development, 451 7th Street, SW, Room 7184, Washington, DC 20410; telephone (202) 708–1322 (this is not a toll-free number). Persons with speech or hearing impairments may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

**SUPPLEMENTARY INFORMATION:** On July 15, 1998 (63 FR 38252), HUD published its Fiscal Year 1998 Notice of Funding Availability (NOFA) for the HUD Colonias Initiative (HCI). The NOFA announced the availability of $5 million for assistance to organizations serving colonia residents. Of this amount, up to $4 million will be provided to carry out development projects in colonias. One grant of $1 million may be provided to one or more private intermediary organization(s) (for profit and nonprofit) that would provide capacity-building loans, grants, or technical assistance to local nonprofit organizations serving colonias residents. Colonias eligible for assistance under the July 15, 1998 NOFA are any of the severely distressed, rural, unplanned, predominantly unincorporated settlements located along the 2,000 mile United States-Mexico border. The July 15, 1998 NOFA set forth the application instructions for the development grants and capacity-building grants.

The July 15, 1998 NOFA provided two possible definitions of the term ''rural county.'' This notice amends the NOFA to use the broader and appropriate terms ''rural'' and ''rural area,'' which encompass ''rural county.'' Applicants for HCI grants may use one of the four definitions described in this notice.

This notice also amends the July 15, 1998 NOFA to provide for the award of two bonus points for eligible activities/ projects that are proposed to be located in a Federally designated Empowerment Zone or Enterprise Community. This change will conform the July 15, 1998 HCI NOFA to HUD's three consolidated SuperNOFAs published in the **Federal Register** on May 31, 1998 and April 30, 1998.

Further, this notice amends the July 15, 1998 NOFA to provide that HCI applicants must submit clarifications or corrections to their applications within five calendar days of receipt of the HUD notification requesting the clarification or correction. The July 15, 1998 NOFA provided for a 7-day calendar period. This change will permit HUD to expedite the processing of HCI applications.

HUD is also extending the HCI NOFA application due date, in order to ensure that applicants have sufficient time to prepare their applications in light of the revisions to the July 15, 1998 NOFA made by this notice.

Accordingly, in the FY 1998 NOFA for the HUD Colonias Initiative (HCI), notice document 98–18932, beginning at 63 FR 38252, in the issue of Wednesday, July 15, 1998, the following corrections are made:

1. On page 38252, in the first column, under **SUMMARY**, the last sentence of that paragraph is amended to read as follows:

As indicated in the body of this NOFA, applicants may use one of four definitions for the terms ''rural'' or ''rural area.''

2. On page 38252, in the third column, under Section I(B) (captioned ''Definitions''), the definition of the term ''rural county'' is amended to read as follows:

*Rural or Rural Area* may be defined in one of four ways:

(a) A place having fewer than 2,500 inhabitants (within or outside of metropolitan areas).

(b) A county with no urban population (*i.e.,* city) of 20,000 inhabitants or more.

(c) Territory, persons, and housing units in the rural portions of ''extended cities.'' Appendix A to this notice identifies the United States Census Bureau's list of those extended cities located in Arizona, California, New Mexico, and Texas. The U.S. Census Bureau identifies the rural portions of extended cities in the United States. If, based on available information, an applicant is unable to determine if an area is located in the rural portion of an extended city, the applicant may contact Mr. Steve Johnson, Director, State and Small Cities Division at the address below and HUD will assist the applicant in making this determination.

(d) Open country which is not part of or associated with an urban area. The United States Department of Agriculture (USDA) determines what constitutes ''open country.'' If an applicant does not have access to USDA determinations, the applicant may contact Mr. Steve Johnson, Director, State and Small Cities Division at the address below, and HUD will work with the USDA to provide this information to the applicant.

Mr. Steve Johnson may be contacted at the following address: U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Room 7184, Washington, DC 20410; telephone (202) 708–1322 (this is not a toll-free number). Hearing or speech-impaired individuals may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

3. On page 38255, in the first column, under section II(H) (captioned ''Eligible Populations to be Served''), the second sentence of that section is corrected to read as follows:

See definitions of ''colonias'' and ''rural/rural area'' above.

4. On page 38256, in the middle column, under section III(D) (captioned ''Factors for Award''), the first paragraph is amended to read as follows:

(D) *Factors for Award.* All applicants will be considered for selection based on the following factors that demonstrate the need for the proposed project or activities, and the applicant's creativity, capacity and commitment to provide the maximum benefit to the residents of the colonias areas served and the extent to which the proposed project will increase the supply of decent, safe, sanitary, and accessible affordable housing in colonias. The maximum points that may be awarded under this NOFA is 102.

5. On page 38257, in the first column, under section III(D) (captioned ''Factors for Award''), a new final paragraph is added to read as follows:

*EZ/EC Bonus Points.* HUD may award two bonus points for eligible activities/projects that are proposed to be located in Federally designated Empowerment Zones or Enterprise Communities (EZs/ECs) and serve the EZ/EC residents, and are certified to be consistent with the strategic plan of the EZs and ECs. A listing of the Federally designated EZs and ECs are available from the SuperNOFA Information Center or through the HUD web site on the Internet at http://www.HUD.gov.

6. On page 38257, in the first column, section V (captioned ''Corrections to Deficient Applications'') is amended to read as follows:

V. Corrections to Deficient Applications

After the application due date, HUD may not, consistent with 24 CFR part 4, subpart B, consider unsolicited information from an applicant. HUD may contact an applicant, however, to clarify an item in the application or to correct technical deficiencies. Applicants should note, however, that HUD may not seek clarification of items or responses that improve the substantive quality of the applicant's response to any eligibility or selection criterion. Examples of curable technical deficiencies include failure to submit an application containing an original signature by an authorized official. In each case, HUD will notify the applicant in writing by describing the clarification or technical deficiency. HUD will notify applicants by facsimile or by return receipt requested mail. Applicants must submit clarifications or corrections of technical deficiencies in accordance with the information provided by HUD within 5 calendar days of the date of receipt of the HUD notification. If the deficiency is not corrected within this time period, HUD will reject the application as incomplete.

Dated: August 4, 1998.

**Saul N. Ramirez, Jr.,**

*Assistant Secretary for Community Planning and Development.*

## Appendix A—List of Extended Cities Identified by the U.S. Census Bureau in Arizona, California, New Mexico, and Texas

1. Avondale
2. Bullhead City
3. Camp Verde
4. Casa Grande
5. Cave Creek
6. Chandler
7. Clifton
8. Eloy
9. Flagstaff
10. Fountain Hills
11. Gilbert
12. Goodyear
13. Lake Havasu City
14. Oro Valley
15. Page
16. Parker
17. Phoenix
18. Prescott Valley
19. Scottsdale
20. Show Low
21. Sierra Vista
22. Snowflake
23. Surprise
24. Tucson
25. Williams
26. Adelanto
27. Apple Valley
28. Avenal
29. Bakersfield
30. Barstow
31. California City
32. Cathedral City
33. Coachella
34. Fremont
35. Hayward
36. Indian Wells
37. Lake Elsinore
38. Lancaster
39. La Quinta
40. Mammoth Lakes
41. Needles
42. Palmdale
43. Palm Springs
44. Palo Alto
45. Perris
46. Poway
47. Rancho Mirage
48. San Diego
49. Twentynine Palms
50. Union City
51. Victorville
52. West Sacramento
53. Moreno Valley
54. Rio Rancho
55. Socorro
56. Truth or Consequences
57. Allen
58. El Paso
59. Euless
60. Fort Worth
61. Frisco
62. Galveston
63. Grapevine
64. Hitchcock
65. League City
66. Lewisville
67. Liberty
68. McKinney
69. Mansfield
70. Manvel
71. Midlothian
72. Mineral Wells
73. Monahans
74. Port Arthur
75. Robinson
76. Schertz
77. Texas City
78. Waxahachie
79. Wylie

## Appendix B—Certification of Consistency With the EZ/EC Strategic Plan

U.S. Department of Housing and Urban Development

I certify that the proposed activities/projects in this application are consistent with the Strategic Plan of a Federally-

designated Empowerment Zone (EZ) or Enterprise Community (EC).

Applicant Name: _____

Name of the Federal Program to which the applicant is applying: _____

Name of EZ/EC: _____

I further certify that the proposed activities/projects will be located within the EZ/EC and serves EZ/EC residents. (2 points)

Name of the Official Authorized to Certify the EZ/EC:

Title: _____

Signature: _____

Date: _____

[FR Doc. 98–21126 Filed 8–4–98; 2:09 pm]

**BILLING CODE 4210–29–P**

federal register

Friday
August 7, 1998

## Part V

# Environmental Protection Agency

**Forty-Second Report of the TSCA Interagency Testing Committee; Notice**

## ENVIRONMENTAL PROTECTION AGENCY

**[OPPTS–41050; FRL–5797–8]**

## Forty-Second Report of the TSCA Interagency Testing Committee to the Administrator; Receipt of Report and Request for Comments

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

**ACTION:** Notice.

**SUMMARY:** The TSCA Interagency Testing Committee (ITC), established under section 4(e) of the Toxic Substances Control Act (TSCA), transmitted its Forty-Second Report to the Administrator of the EPA on May 29, 1998. In the Forty-Second Report, which is included with this notice, the ITC revised the TSCA section 4(e) *Priority Testing List* by recommending four chemicals: 3-Amino-5-mercapto-1,2,4-triazole, ethyl silicate, glycoluril, and methylal. There are no ''designated'' or ''recommended with intent-to-designate'' chemicals or chemical groups in the Forty-Second Report. EPA invites interested persons to submit written comments on the Report.

**DATES:** Written comments on the Forty-Second ITC Report should be received by September 8, 1998.

**ADDRESSES:** Comments on the Forty-Second Report should be submitted to both the ITC and the TSCA Docket. Send one copy of written comments to: John D. Walker, ITC Executive Director (7401), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Send six copies of written comments to: Document Control Office, Rm. G–099, Office of Pollution Prevention and Toxics (7407), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. All submissions should bear the docket control number OPPTS–41050.

Comments may also be submitted electronically by sending electronic mail (e-mail) to the ITC (walker.johnd@epa.gov) or the TSCA Docket (ncic@epa.gov). Electronic comments are preferred by the ITC. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments will be accepted on disks in WordPerfect 5.1/6.1 file format or ASCII file format. All comments in electronic form must be identified by the docket control number OPPTS–41050. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on the Forty-Second Report may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found in Unit IV of this preamble.

**FOR FURTHER INFORMATION CONTACT:** Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, (202) 554–1404, TDD (202) 554–0551.

**SUPPLEMENTARY INFORMATION:** EPA has received the TSCA Interagency Testing Committee's Forty-Second Report to the Administrator.

### I. Background

TSCA (Pub. L. 94–469, 90 Stat. 2003 *et seq.* (15 U.S.C. 260l *et seq.*)) authorizes the Administrator of the EPA to promulgate regulations under section 4(a) requiring testing of chemicals and chemical groups in order to develop data relevant to determining the risks that these chemicals and chemical groups may present to health or the environment. Section 4(e) of TSCA established the ITC to recommend chemicals and chemical groups to the Administrator of the EPA for priority testing consideration. Section 4(e) of TSCA directs the ITC to revise the TSCA section 4(e) *Priority Testing List* at least every 6 months.

### II. The ITC Forty-Second Report

The most recent revisions to the *Priority Testing List* are included in the ITC's Forty-Second Report. The Report was received by the Administrator of the EPA on May 29, 1998, and is included in this notice. Four chemicals: 3-Amino-5-mercapto-1,2,4-triazole, ethyl silicate, glycoluril, and methylal are being recommended because:

1. 3-Amino-5-mercapto-1,2,4-triazole is being considered for health effects testing based on concerns related to effects on thyroid hormone activity.
2. Ethyl silicate is under review for mutagenicity and subchronic or chronic toxicity testing based on potential human exposures and suspicions of genotoxicity or carcinogenicity.
3. Glycoluril is under review for carcinogenicity testing based on a potential for human exposure and a suspicion of carcinogenicity.
4. Methylal is under review for carcinogenicity testing based on its potential for human exposure and a suspicion of carcinogenicity.

### III. Status of the Priority Testing List

The current TSCA section 4(e) *Priority Testing List* contains 11 chemical groups; of these, 4 chemical groups were designated for testing.

### IV. Public Record, Electronic Comment Submission, and Oral Comments

The EPA invites interested persons to submit detailed comments on the ITC's Forty-Second Report.

An official record has been established for this notice, as well as a public version, under docket control number OPPTS–41050 (including comments and data submitted electronically as described below). A public version of this record, including printed paper versions of electronic comments and data, which does not contain any information claimed as CBI, 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, Environmental Protection Agency, 401 M St., SW., Washington, DC. Electronic comments can be sent directly to the ITC at walker.johnd@epa.gov and to the TSCA Docket at ncic@epa.gov.

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments will be accepted on disks in WordPerfect 5.1/6.1 file format or ASCII file format.

The official record for the ITC's Forty-Second Report, as well as the public version as described above, will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the EPA address in this unit.

### List of Subjects

Environmental protection, Chemicals, Hazardous substances, Health and safety.

**Authority:** 15 U.S.C. 2603.

Dated: July 27, 1998.

**Charles M. Auer,**

*Director, Chemical Control Division, Office of Pollution Prevention and Toxics.*

## Forty-Second Report of the TSCA Interagency Testing Committee

### Administrator, U.S. Environmental Protection Agency

*Summary*

This is the 42nd Report of the TSCA Interagency Testing Committee (ITC) to the Administrator of the U.S.

Environmental Protection Agency (EPA). In this Report, the ITC is revising its TSCA section 4(e) *Priority Testing List* by recommending 3-amino-5-mercapto-1,2,4-triazole, ethyl silicate, glycoluril, and methylal. The revised TSCA section 4(e) *Priority Testing List* follows as Table 1.

Table 1.—The TSCA Section 4(e) *Priority Testing List* (May 1998)[1]

| Report | Date | Chemical/Group | Action |
|---|---|---|---|
| 26 | May 1990 | 8 Isocyanates | Recommended with intent-to-designate |
| 27 | November 1990 | 62 Aldehydes | Recommended with intent-to-designate |
| 28 | May 1991 | Chemicals with Low Confidence Reference Dose (RfD).<br>Acetone<br>Thiophenol | Designated |
| 30 | May 1992 | 5 Siloxanes | Recommended |
| 31 | January 1993 | 24 Chemicals with insufficient dermal absorption rate data. | Designated |
| 32 | May 1993 | 32 Chemicals with insufficient dermal absorption rate data. | Designated |
| 35 | November 1994 | 24 Chemicals with insufficient dermal absorption rate data. | Designated |
| 36 | May 1995 | 9 High production volume chemicals (HPVCs) | Recommended |
| 37 | November 1995 | 22 Alkylphenols and alkylphenol ethoxylates[2] | Recommended |
| 39 | November 1996 | 23 Nonylphenol ethoxylates[2] | Recommended |
| 41 | November 1997 | 29 Alkylphenols, alkylphenol ethoxylates, and polyalkyphenols[2]. | Recommended |
| 42 | May 1998 | 3-Amino-5-mercapto-1,2,4-triazole[2] | Recommended |
| 42 | May 1998 | Glycoluril[2] | Recommended |
| 42 | May 1998 | Methylal[2] | Recommended |
| 42 | May 1998 | Ethyl silicate[2] | Recommended |

[1] The *Priority Testing List* is available from the ITC's web site (http://www.epa.gov/opptintr/itc).
[2]Data requested using the ITC's Voluntary Information Submissions Policy (VISP), see http://www.epa.gov/opptintr/itc/visp.htm.

## I. Background

The ITC was established by section 4(e) of the Toxic Substances Control Act (TSCA) ''to make recommendations to the Administrator respecting the chemical substances and mixtures to which the Administrator should give priority consideration for the promulgation of a rule for testing under section 4(a).... At least every six months..., the Committee shall make such revisions to the *Priority Testing List* as it determines to be necessary and transmit them to the Administrator together with the Committee's reasons for the revisions'' (Public Law 94–469, 90 Stat. 2003 *et seq*., 15 U.S.C. 2601 *et seq*.). Since its creation in 1976, the ITC has submitted 41 semi-annual (May and November) Reports to the EPA Administrator transmitting the *Priority Testing List* and its revisions. In 1989, the ITC began recommending chemical substances for information reporting, screening, and testing to meet the data needs of its member U.S. Government organizations. ITC Reports are available from http://www.epa.gov/opptintr/itc within a few days of submission to the Administrator and from http://www.epa.gov/fedrgstr after publication in the **Federal Register**. The ITC meets monthly and produces its revisions to the *List* with administrative and technical support from the ITC staff and contract support provided by EPA. ITC members and staff are listed at the end of this Report.

## II. TSCA Section 8 Reporting

### *A. TSCA Section 8 Rules*

Following receipt of the ITC's Report by the EPA Administrator and addition of chemicals to the *Priority Testing List*, the EPA's Office of Pollution Prevention and Toxics (OPPT) promulgates TSCA section 8(a) Preliminary Assessment Information Reporting (PAIR) and TSCA section 8(d) Health and Safety Data (HaSD) rules for chemicals added to the *List*. These rules require producers and importers of chemicals recommended by the ITC to submit production and exposure reports under TSCA section 8(a) and producers, importers, and processors of chemicals recommended by the ITC to submit unpublished health and safety studies under TSCA section 8(d). These rules are automatically promulgated by OPPT unless requested not to do so by the ITC.

### *B. ITC's Use of TSCA Section 8 and ''Other Information''*

The ITC reviews the TSCA section 8(a) PAIR reports, TSCA section 8(d) HaSD studies, and ''other information'' that becomes available after the ITC adds chemicals to the *List*. ''Other information'' includes TSCA section 4(a) and 4(d) studies, TSCA section 8(c) submissions, TSCA section 8(e) ''substantial risk'' notices, ''For Your Information'' (FYI) submissions, ITC-FYI voluntary submissions, unpublished data submitted to U.S. Government organizations represented on the ITC, published papers, as well as use, exposure, effects, and persistence data that are voluntarily submitted to the ITC by manufacturers, importers, processors, and users of chemicals recommended by the ITC. The ITC reviews this information and determines if data needs should be revised, if chemicals should be removed from the *List*, or if recommendations should be changed to designations.

### *C. Policy Promoting More Efficient Use of TSCA Section 8 Resources*

In its 40th Report (62 FR 30580, June 4, 1997) (FRL–5718–3), the ITC proposed the Voluntary Information Submissions Policy (VISP) to promote more efficient use of TSCA section 8 resources. After the 40th and 41st (63 FR 17658, April 9, 1998) (FRL–5773–5) Reports were delivered to the EPA Administrator, the VISP was revised and posted on the ITC's web site (http://www.epa.gov/opptintr/itc/visp.htm). Revisions to the VISP included eliminating the need to submit a list of studies, changing the milestone for notifying the ITC Director from 30 to 60 days, and providing clearer guidance for submitting electronic data. The VISP is part of the ITC's Voluntary Information Submissions Innovative Online Network

(VISION) that is described in the ITC's web site (http://www.epa.gov/opptintr/itc/vision.htm). The ITC's VISION currently includes the VISP, the TSCA Electronic HaSD Reporting Form (http://cyber22.dcoirm.epa.gov/oppt/tsca.nsf/HaSDForm?openform), and instructions for the Form (http://www.epa.gov/opptintr/itc/tsca-hlp.htm). The VISP provides examples of data needed by ITC member U.S. Government organizations, examples of studies that should not be submitted, the 60-, 90- and 120-day milestones for meeting the objectives of the VISP, guidelines for using the TSCA Electronic HaSD Reporting Form, and instructions for electronically submitting full studies. The ITC implemented the VISP in its 41st Report for the alkylphenols, alkylphenol ethoxylates, and polyalkylphenols recommended in its 37th (61 FR 4188, February 2, 1996) (FRL–4991–6), 39th (62 FR 8578, February 25, 1997) (FRL–5580–9), and 41st Reports.

## III. ITC's Dialogue Group Activities During this Reporting Period (November 1997 to May 1998)

*Alkylphenols and Ethoxylates (AP&E)*

The Chemical Manufacturers Association (CMA)-ITC AP&E Dialogue Group was formed by the CMA's AP&E Panel and the ITC's AP&E Subcommittee in March 1996 following the submission of the ITC's 37th Report to the EPA Administrator in November 1995. The Group was created to facilitate the ITC's retrieval of information on uses, exposures and health, and ecological effects of alkylphenols and alkylphenol ethoxylates, and the Panel's understanding of data needed by the U.S. Government organizations represented on the Subcommittee. Since the creation of this Dialogue Group, numerous activities have occurred: see the ITC's 38th (61 FR 39832, July 30, 1996) (FRL–5379–2), 39th, 40th, and 41st Reports. As a result of the Dialogue Group activities, the Panel voluntarily provided the ITC with a database of 255 studies for the alkylphenols and alkylphenol ethoxylates recommended in the 37th Report and the nonylphenol ethoxylates recommended in the 39th Report. In addition, at least 25 non-Panel member companies provided 240 submissions on alkylphenols and alkylphenol ethoxylates (each submission contains one or more studies) in response to the TSCA section 8(d) rule for the alkylphenols and alkylphenol ethoxylates recommended in the 37th Report.

The AP&E Dialogue Group met twice during this reporting period. On February 11 and April 22, 1998, the Dialogue Group met to discuss:

1. Use and exposure data for certain alkylphenols and alkylphenol ethoxylates.
2. Progress and results of ongoing environmental and toxicological studies being conducted or sponsored by chemical manufacturers on the Panel, (e.g., mammalian *in vitro* and *in vivo* toxicology, mammalian pharmacokinetic, biodegradation, aquatic toxicity, and avian acute toxicity studies).
3. The ITC's VISION.
4. Information being generated by the Society of the Plastics Industry (e.g., dialogue with the Food and Drug Administration (FDA) to estimate dietary exposure to tris-nonylphenyl phosphite, nonylphenyl ethoxylates, and nonylphenols).
5. Historic AP&E monitoring and research conducted by the U.S. Geological Survey.
6. Recent AP&E monitoring conducted by the Silent Spring Institute (published in *Environmental Science and Technology* 32:861–869; 1998).
7. EPA's ambient water quality criteria document for nonylphenol.
8. OPPT's Risk Management–1 (RM–1) document on *p*-nonylphenol.
9. Organization for Economic Cooperation and Development (OECD) Screening Information Data Set (SIDS) dossiers on nonylphenol and nonylphenol ethoxylates.
10. European nonylphenol ethoxylates risk reduction activities.

## IV. Revisions to the TSCA Section 4(e) Priority Testing List

Revisions to the TSCA section 4(e) *Priority Testing List* are summarized in Table 2.

Table 2.—Revisions to the TSCA Section 4(e) *Priority Testing List*

| CAS No. | Chemical name | Action | Date |
|---|---|---|---|
| 16691–43–3 | 3-Amino-5-mercapto-1,2,4-triazole | Recommended | May 1998 |
| 496–46–8 | Glycoluril | Recommended | May 1998 |
| 109–87–5 | Methylal | Recommended | May 1998 |
| 78–10–4 | Ethyl silicate | Recommended | May 1998 |

*A. Chemicals Added to the Priority Testing List*

At this time, the ITC is requesting that the EPA not promulgate a TSCA section 8(d) rule for any of the recommended chemicals. The ITC is encouraging producers, importers, processors, and users of the recommended chemicals to use its VISION (http://www.epa.gov/opptintr/itc/vision.htm) to provide voluntary electronic information submissions and establish a dialogue with the ITC to discuss needed data.

1. *3-Amino-5-mercapto-1,2,4-triazole*

i. *Recommendation*. 3-Amino-5-mercapto-1,2,4-triazole is being recommended to obtain annual production/importation volumes and trends, use, exposure, and health effects data needed by U.S. Government organizations represented on the ITC.

ii. *Rationale for recommendation*. 3-Amino-5-mercapto-1,2,4-triazole is being considered for health effects testing based on concerns related to effects on thyroid hormone activity. Before designating 3-amino-5-mercapto-1,2,4-triazole for priority testing consideration by the EPA Administrator, the ITC wants to review the PAIR data and the needed data listed below:

iii. *Data needed*

a. Recent non-Confidential Business Information (CBI) estimates of annual production or importation volume data and trends.[1]

b. Use information, including percentages of production or importation that are associated with different uses.[1]

c. Estimates of the number of humans and concentrations of 3-amino-5-mercapto-1,2,4-triazole to which humans may be exposed from use, manufacturing, or processing.[1]

d. Health effects.[2]

iv. *Supporting information*. There is a need to determine potential toxicity of

[1]E-mail voluntary information submissions to walker.johnd@epa.gov.

[2]Provide voluntary information submissions through http://www.epa.gov/opptintr/itc/vision.htm.

3-amino-5-mercapto-1,2,4-triazole based on concerns related to effects on thyroid hormone activity (Ref. 3, Takaoka et al., 1994). Non-CBI data reported to the EPA indicated that about 250,000 pounds of 3-amino-5-mercapto-1,2,4-triazole were imported into the United States in 1993. 3-Amino-5-mercapto-1,2,4-triazole is reportedly used in organic synthesis, processing of silver halide photographic materials, as an antioxidant for aluminum and as a viscosity index improver, dispersant, and antioxidant for lubricating oils. No published data were found on:

a. Environmental releases.

b. Environmental fate.

c. Occupational exposures.

d. Concentrations of 3-amino-5-mercapto-1,2,4-triazole to which humans may be exposed.

A few data related to potential effects were found. 3-Amino-5-mercapto-1,2,4-triazole was not included in the National Institute for Occupational Safety and Health (NIOSH) National Occupational Exposure Survey (NOES), and guidelines for occupational exposures have not been established by NIOSH or Occupational Safety and Health Administration (OSHA). Schafer et al. (Ref. 2, 1982) reported that 3-amino-5-mercapto-1,2,4-triazole has an $LD_{50}$ > 316 mg/kg body weight of quails (Coturnix coturnix). 3-Amino-5-mercapto-1,2,4-triazole was reported to be one of five chemicals structurally related to 3-amino-1,2,4-triazole (Amitrol®), a herbicide that affected thyroid hormone activity (Ref. 3, Takaoka et al., 1994). In studies with rats, 3-amino-5-mercapto-1,2,4-triazole was also reported to be a metabolite of Amitrol® (Ref. 1, Grunow et al., 1975).

2. *Glycoluril*

i. *Recommendation*. Glycoluril is being recommended to obtain annual production/importation volumes and trends, use, exposure and health effects data needed by U.S. Government organizations represented on the ITC.

ii. *Rationale for recommendation*. Glycoluril is under review for carcinogenicity testing based on a potential for human exposure and a suspicion of carcinogenicity. The suspicion of carcinogenicity is based on a potential for the formation of a nitrosamide. A document prepared for the U.S. Government organization nominating glycoluril to the ITC is available on the ITC's web site (glycoluril document) and in the TSCA Docket for the ITC's 42nd Report (Ref. 5, TRI, 1997b). Before designating glycoluril for priority testing consideration by the EPA Administrator, the ITC wants to retrieve and review the most current data on exposures and health effects. Data already included in the glycoluril document should not be submitted to the ITC. Data needed are listed below.

iii. *Data needed*

a. Recent non-CBI estimates of annual production or importation volume data and trends.[1]

b. Use information, including percentages of production or importation that are associated with different uses.[1]

c. Estimates of the number of humans and concentrations of glycoluril to which humans may be exposed from use, manufacturing or processing.[1]

d. Health effects.[2]

iv. *Supporting Information*. Data reported to the EPA in 1986, 1990 and 1994 indicated that the non-CBI annual production/importation volumes for glycoluril ranged from 10,000 to 1,000,000 pounds. Available use information suggested that glycoluril may be used as a slow-release nitrogen fertilizer, but its use may be limited because of the chemical's cost. It has also been reported that glycoluril resins have been used in paint and coating formulations. No published data were found on:

a. Environmental releases.

b. Environmental fate.

c. Ecological effects.

d. Health effects.

e. Occupational exposures.

f. Concentrations of glycoluril to which humans may be exposed.

Glycoluril was not listed in the Registry of Toxic Effects of Chemical Substances (RTECS) or in NIOSH's NOES and guidelines for occupational exposures have not been established by NIOSH or OSHA.

*3. Methylal*

i. *Recommendation*. Methylal is being recommended to obtain production/ importation volume data and trends, use, exposure, health effects, especially *in vivo* mammalian metabolism and chronic effects data needed by U.S. Government organizations represented on the ITC.

ii. *Rationale for recommendation*. Methylal is under review for carcinogenicity testing based on its potential for human exposure and a suspicion of carcinogenicity. The suspicion of carcinogenicity is based on mutagenicity data from a number of bacterial and mammalian systems and the potential for methylal to be metabolized to formaldehyde, a rodent carcinogen. A document prepared for the U.S. Government organization nominating methylal to the ITC is available on the ITC's web site (methylal document) and in the TSCA Docket for the ITC's 42nd Report (Ref. 6, TRI, 1997c). Before designating methylal for priority testing consideration by the EPA Administrator, ITC wants to retrieve and review the most current data on exposures and health effects. Data already included in the methylal document should not be submitted. Data needed are listed below.

iii. *Data needed*

a. Recent non-CBI estimates of annual production or importation volume data and trends.[1]

b. Use information, including percentages of production or importation that are associated with different uses.[1]

c. Estimates of the number of humans and concentrations of methylal to which humans may be exposed from use, manufacturing, or processing.[1]

d. Health effects, especially, *in vivo* mammalian metabolism and chronic effects.[2]

iv. *Supporting information*. Data reported to the EPA in 1990 indicated that the non-CBI annual production/ importation volume for methylal was in the range of 1.2 to 6.4 million pounds. Methylal is reportedly used in perfumery, as a chemical intermediate in the manufacture of artificial resins and in organic synthesis, a solvent, and a special fuel. NOES human exposure data from 1981–1983 were found, as well as threshold limit values for human exposures. According to the NOES, 156,795 workers, including 21,092 female employees, were potentially exposed to methylal. No published data were found on the ecological effects of methylal, *in vivo* mammalian metabolism, chronic effects or concentrations of methylal to which humans were exposed. Published acute, subchronic, mutagenic effects, environmental releases, and environmental fate data were located as well as some metabolism data.

4. *Ethyl silicate*

i. *Recommendation*. Ethyl silicate is being recommended to obtain production/importation volume data and trends, use, exposure and health effects, especially *in vivo* mammalian mutagenicity and subchronic or chronic effects data needed by U.S. Government organizations represented on the ITC.

ii. *Rationale for recommendation*. Ethyl silicate is under review for mutagenicity and subchronic or chronic toxicity testing based on potential human exposures and suspicions of genotoxicity or carcinogenicity. These suspicions are based on *in vitro* mammalian mutagenicity data. A document prepared for the U.S. Government organization nominating ethyl silicate to the ITC is available on the ITC's web site (ethyl silicate

document) and in the TSCA Docket for the ITC's 42nd Report (Ref.4, TRI, 1997a). Before designating ethyl silicate for priority testing consideration by the EPA Administrator, the ITC wants to retrieve and review the most current data on exposures and health effects. Data already included in the ethyl silicate document should not be submitted to the ITC. The ITC has an ongoing dialogue with the Silicones Environmental Health and Safety Council (SEHSC) related to previously-recommended siloxanes and anticipates that SEHSC will establish a dialogue with the ITC to discuss data needed for ethyl silicate. Data needed are listed below.

iii. *Data needed*

a. Recent non-CBI estimates of annual production or importation volume data and trends.[1]

b. Use information, including percentages of production or importation that are associated with different uses.[1]

c. Estimates of the number of humans and concentrations of ethyl silicate to which humans may be exposed from use, manufacturing or processing.[1]

d. Health effects, especially *in vivo* mammalian mutagenicity and subchronic or chronic effects.[2]

iv. *Supporting information*. In the ITC's 28th Report (56 FR 41212, August 19, 1991), ethyl silicate and 36 other alkoxysilanes were recommended for ecological effects testing. In its 32nd Report (58 FR 38490, July 16, 1993), at EPA's request, all 37 alkoxysilanes were removed from the *Priority Testing List*, before TSCA section 8(a) PAIR or section 8(d) HaSD rules were promulgated (58 FR 38490, July 16, 1993). At the time alkoxysilanes were removed from the *List*, the EPA indicated that other chemicals had a higher priority than the alkoxysilanes. The ITC acknowledged that there were no existing U.S. Government data needs, but agreed to reconsider any of these chemicals if data were needed in the future.

Data reported to the EPA indicated that the non-CBI annual production/importation volume for ethyl silicate was in the range of 7 to 20 million pounds in 1989 and 1 to 100 million pounds in 1993.

Ethyl silicate is reportedly used in weatherproofing and hardening stone; in the manufacture of weatherproof and acid-proof mortars, cements, refractory bricks, other molded objects; in heat- and chemical-resistant paints, protective coatings for industrial buildings and castings; in lacquers, as abonding agent; and as a chemical intermediate. NOES data from 1981–1983 were found as well as threshold limit values for human exposures, and data on concentrations of ethyl silicate to which humans may be exposed. According to the NOES, 10,422 workers, including 2,566 female employees, were potentially exposed to ethyl silicate. No published available data were found on:

1. Environmental releases.
2. Ecological effects.
3. Chronic health effects.
4. Mutagenicity from *in vivo* mammalian test systems.

Published data included those related to:

1. Acute and subchronic effects.
2. Metabolism.
3. Mutagenicity from *in vitro* mammalian test systems.

## V. References

All references are available in the TSCA Docket for the ITC's 42nd Report. The TSCA Docket is located in the TSCA Nonconfidential Information Center, Rm. NE–B607, 401 M St., SW., Washington, DC.

1. Grunow, W., H.J Altman, and C. Boehme. Uber den Staffwechsel von 3-Amino-1,2,4-triazol in Ratten [On the Metabolism of 3-Amino-1,2,4-triazole in Rats]. *Archives of Toxicology*. 34(4):315–324. 1975.

2. Schafer, Jr., E.W., R.B. Brunton, E.C. Schafer, and G. Chavez. Effects of 77 Chemicals on Reproduction in Male and Female Coturnix Quail. *Ecotoxicology and Environmental Safety*. 6:149–156. 1982.

3. Takaoka, M., M. Teranishi, and S. Manabe. Structure-Activity Relationships in 5-Substituted 3-Amino-1,2,4-Triazoles-Induced Goiters in Rats. *Journal of Toxicology and Pathology*. 7:429–434. 1994.

4. TRI. 1997a. Ethyl Silicate—summary of data for chemical selection by the National Cancer Institute (NCI) Chemical Selection Working Group. Prepared by Technical Resources International, Inc. under NCI Contract No. NO2–CB–50511 (1/96; rev. 9/96, rev. 8/97).

5. TRI. 1997b. Glycoluril—summary of data for chemical selection by the National Cancer Institute (NCI) Chemical Selection Working Group. Prepared by Technical Resources International, Inc. under NCI Contract No. NO2–CB–50511 (6/97; rev. 9/97).

6. TRI. 1997c. Methylal—summary of data for chemical selection by the National Cancer Institute (NCI) Chemical Selection Working Group. Prepared by Technical Resources International, Inc. under NCI Contract No. NO2–CB–50511 (7/96; rev. 8/97).

## VI. TSCA Interagency Testing Committee

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federal register

Friday
August 7, 1998

## Part VI

# The President

**Proclamation 7114—Designating Klondike Gold Rush International Historical Park**

**Executive Order 13095—Suspension of Executive Order 13083**

Federal Register
Vol. 63, No. 152
Friday, August 7, 1998

# Presidential Documents

**Title 3—**

## The President

**Proclamation 7114 of August 5, 1998**

## Designating Klondike Gold Rush International Historical Park

**By the President of the United States of America**

**A Proclamation**

A century ago, the Klondike Gold Rush began a migration that forever changed Alaska and the Yukon Territory. More than 100,000 people headed north during 1897 and 1898, catapulting a little-known region from obscurity to the center of the world stage. While the Klondike was not the first or largest western gold rush, coming nearly 50 years after the 1848 gold discovery at Sutter's Mill, California, it is remembered for the sheer drama by which it was announced to the world and for its century-long influence on Alaska and the upper Yukon River basin.

The United States and Canada have been engaged for 30 years in joint planning and cooperation to commemorate the Klondike Gold Rush and preserve historic structures and trails on both sides of the international boundary. In 1976, the Government of the United States established Klondike Gold Rush National Historical Park, consisting of a Seattle unit, a Skagway unit, a Chilkoot Pass unit, and a White Pass unit, to preserve the historic structures and trails. The Government of Canada has recognized the national significance of the Chilkoot Trail and Dawson Historical Complex by designating them as National Historic Sites. It has also designated a section of the Yukon River as a Canadian Heritage River and taken other steps to commemorate the rich history of this region.

It is the desire of the United States to join our Canadian neighbors in celebrating our shared history on the occasion of the centennial of the Klondike Gold Rush and to reaffirm the commitment of the United States to continuing the joint efforts of both nations to preserve our shared Klondike history.

In 1996, Canadian Prime Minister Jean Chretien proclaimed that, ''the governments of Canada and the United States and of Yukon and Alaska in a long-standing spirit of cooperation have agreed to establish the Klondike Gold Rush International Historic Park, incorporating the resources of the Chilkoot Trail National Historic Site in British Columbia and the Klondike Gold Rush National Historical Park in Alaska . . .''

Section 3(a) of U.S. Public Law 94–323 states, ''At such time . . . that planning, development, and protection of the adjacent or related historic and scenic resources in Canada have been accomplished by the Government of Canada in a manner consistent with the purposes for which the park was established, and upon enactment of a provision similar to this section by the proper authority of the Canadian Government, the President is authorized to issue a proclamation designating and including the park as a part of an international historical park to be known as Klondike Gold Rush International Historical Park.''

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by section 3(a) of Public Law 94–323 of June 30, 1976, do proclaim that Klondike Gold Rush National Historical Park is designated and included as part of an international historical park to be known as Klondike Gold Rush International Historical Park.

IN WITNESS WHEREOF, I have hereunto set my hand this fifth day of August, in the year of our Lord nineteen hundred and ninety-eight, and of the Independence of the United States of America the two hundred and twenty-third.

William J. Clinton

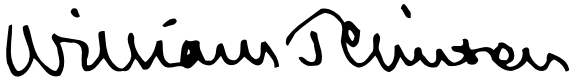
[FR Doc. 98–21399
Filed 8–6–98; 8:45 am]
Billing code 3195–01–P

# Presidential Documents

**Executive Order 13095 of August 5, 1998**

## Suspension of Executive Order 13083

By the authority vested in me as President by the Constitution and the laws of the United States of America and in order to enable full and adequate consultation with State and local elected officials, their representative organizations, and other interested parties, it is hereby ordered that Executive Order 13083, entitled ''Federalism,'' is suspended.



THE WHITE HOUSE,
*August 5, 1998.*

[FR Doc. 98–21400
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